RELIGIOUS IN CHURCH LAW

BY HECTOR PAPI, S.J.

398.52
PR

Religious in Church Law

AN EXPOSITION OF CANON LAW
CONCERNING RELIGIOUS

Religious in Church Law

AN EXPOSITION OF CANON LAW CONCERNING RELIGIOUS

BY

HECTOR PAPI, S.J.

PROFESSOR OF CANON LAW, WOODSTOCK COLLEGE

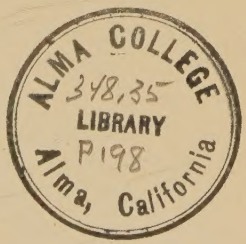
AUTHOR OF "RELIGIOUS PROFESSION"

"THE GOVERNMENT OF RELIGIOUS COMMUNITIES"

WITH A PREFACE BY

THE RIGHT REV. MSGR. PHILIP BERNARDINI, D.D.

PROFESSOR OF CANON LAW AT THE CATHOLIC UNIVERSITY



NEW YORK

P. J. KENEDY & SONS

Publishers to the Holy Apostolic See

1924

427

Imprimi Potest:
LAURENTIUS J. KELLY, S.J.
Præpositus Prov. Marylandiæ Neo-Eboracensis

Nihil Obstat:
ARTHURUS J. SCANLAN, S.T.D.
Censor Librorum

Imprimatur:
✠PATRITIUS J. HAYES, D.D.
Archiepiscopus Neo-Eboracensis

Neo-Eboraci
die 13, *Octobris* 1923

COPYRIGHT, 1924,
P. J. KENEDY & SONS
PRINTED IN U.S.A.

PREFACE

THE writer of this book, "Religious in Church Law," needs no introduction, as he is well known through his two previous publications, "Religious Profession" and "The Government of Religious Communities," in which, with a mastery and experience acquired during many years as Professor of Canon Law, he presents a clear and simple explanation of several canons that concern two important divisions of ecclesiastical discipline.

The present work differs from the first two, both in form and content.

As appears from the title, "Religious in Church Law," the author does not limit himself to illustrating one particular phase of religious life, or to writing a commentary on the canons contained in the second part of the Second Book of the Code; but he considers the whole legislature concerning Religious, as well as the law governing them in their manifold activities, and in their relations to other ecclesiastical bodies and persons. Guided by this principle, the author presents to the reader an explanation of a large number of canons which, though scattered throughout the various parts of the Code, have, nevertheless, some bearing either directly or indirectly on the religious life. This exposition renders the work complete and adds to its importance and usefulness.

The order and method followed likewise increase the practical utility of the book. Owing to the character of the work, it was not possible to develop the subject by explaining the canons in their numerical order. It might

have been possible to give a doctrinal division, which, however, in works of this kind usually proves difficult and obscure. But in this work, as in his other two books, the author has aimed at providing a practical guide to all, whether religious or non-religious, who may desire to have within easy reach a handy and clear treatise where they will find sound canonical doctrine. To this end, following the example of other synopses, the author has divided his book into one hundred and fourteen articles explained in alphabetical order, each containing a short, practical, and, as far as the scope of the work permits, complete exposition of ecclesiastical law in that particular field. To this is added an index of all the canons bearing on the matter, with appropriate references to the articles and paragraphs which have reference to particular canons.

In conclusion, the work of Father Papi does not pretend to give canonists an elaborate and exhaustive treatment of matters dealing with religious, but has for its object to be of solid and practical help to all those who, either because of their state of life or because of their office, come in daily contact with these questions. In this sense the work of Father Papi has succeeded happily and deserves to be widely known and read, because it will serve greatly to spread a practical knowledge of Canon Law, with the excellent results of securing better guidance and formation in the religious state.

MSGR. PHILIP BERNARDINI

CATHOLIC UNIVERSITY
WASHINGTON, D. C.

ERRATUM

Page 83, n 12: Last sentence, "In either case sickness affords," etc., should read, "In *ne*ither case."

CONTENTS

PAGE

PREFACE v

1. ABBESS 1
2. ABBOT 1
3. ACTA APOSTOLICAE SEDIS 4
4. ADMISSION TO A RELIGIOUS INSTITUTE 4
5. APOSTATES AND FUGITIVES 7

APOSTOLIC DELEGATE: see ROMAN PONTIFF

6. APOSTOLIC SEE 9

ASSISTANTS: see PAROCHIAL VICARS
BEGGING: see COLLECTING
BLESSINGS: see CONSECRATIONS AND BLESSINGS
BOOKS: see PUBLICATION OF BOOKS
BURIAL: see FUNERALS

7. BURSARS 11

CANONICAL VISITATION: see VISITATION, CANONICAL

8. CANONS REGULAR 12
9. CARDINAL PROTECTOR 13
10. CAUSAE PIAE 13
11. CHANGE OF INSTITUTE 14
12. CHAPLAINS 18
13. CHAPTERS AND COUNCILS 19
14. CHARITABLE INSTITUTIONS 25
15. CHASTITY, VOW OF 27
16. CHURCHES 28
17. CLERICAL INSTITUTE 31
18. CLERKS REGULAR 32
19. COERCIVE POWER 32
20. COLLECTING 34
21. COMMON LIFE 39
22. COMMUNITY PROPERTY 40
23. CONFERENCES 49

PAGE

24. Confessors 49
25. Confraternities and Pious Unions 66
26. Congregation, Religious 70
27. Consecrations and Blessings 71
Constitutions: see Rules and Constitutions
Correspondence: see Letters
Councillors: see Chapters and Councils
28. Dignities and Offices Outside a Religious Institute 73
29. Diocesan Institute 77
30. Diocesan Synod 77
31. Dismissal 78
Dispensation From the Vows: see Vows
32. Divine Office 95
33. Dowry 98
34. Elections 101
35. Enclosure 113
Entrance into a Religious Institute: see Admission to a Religious Institute
36. Examinations 121
37. Exemption 122
38. Exempt Institute 130
Ex-religious: see Dismissal: Leaving
Extreme Unction: see Last Sacraments
39. Formal House 130
40. Funerals 130
41. Habit, Religious 132
Higher Superiors: see Superiors
42. Holy Eucharist, Sacrament of 133
Holy Rule: see Rules and Constitutions
43. Holy Sacrifice 137
Holy Viaticum: see Last Sacraments
44. Honorary Titles 141
45. House of Studies 141
46. Indulgences 144
47. Indults, Diocesan 145
48. Judicial Power 145
49. Last Sacraments 147
50. Lay Institute 149
51. Leaving 149

PAGE

52. Legislative Power 156
53. Letters 157
Lower Superiors: see Superiors
54. Manifestation of Conscience 158
Mass: see Holy Sacrifice
55. Master and Mistress of Novices 163
56. Mendicant Orders 167
57. Military Orders, Religious 168
58. Missionaries 169
59. Monastery 170
60. Monastic Congregation 170
61. Monks 171
62. Normae 171
Novices: see Novitiate; Master and Mistress of Novices
63. Novitiate 175
64. Nuns 192
65. Obedience, Vow of 195
66. Obligations 201
67. Oratories 205
68. Order, Religious 208
69. Orders, Sacrament of 208
70. Ordinary of the Place 215
71. Papal Blessing 220
72. Parish 220
73. Parochial Vicars 223
74. Pastors, Religious 225
75. Penance, Sacrament of 230
76. Pious Exercises 231
77. Pious Trusts 233
78. Pontifical Institute 233
79. Pontificals 234
80. Postulancy 234
81. Poverty, Vow of 236
82. Preaching 246
83. Precedence, Rules of 248
84. Private Property 250
85. Privileges 260
86. Processions, Sacred 266

PAGE

87. Procurator General 267
88. Profession, Religious 268
89. Profession of Faith 282
Property: see Community Property; Private Property
90. Province 284
91. Provincial Council 285
92. Publication of Books 286
93. Rectors of Churches 286
94. Regular House 287
95. Regulars 287
96. Relics 287
97. Religious 288
Religious Congregation: see Congregation, Religious
Religious Habit: see Habit, Religious
98. Religious House 289
99. Religious Institute 292
100. Religious of Simple Vows 296
Religious Order: see Order, Religious
101. Religious State 296
102. Roman Pontiff 297
103. Rules and Constitutions 298
Sacrament of Holy Eucharist: see Holy Eucharist, Sacrament of; Last Sacraments
Sacrament of Extreme Unction: see Last Sacraments
Sacrament of Penance: see Confessors; Penance, Sacrament of
Sacrament of Orders: see Orders, Sacrament of
104. Sacred Images 304
105. Sanction 305
Scholasticate: see House of Studies
106. Seminary tax 313
107. Sisters 314
108. Societies Without Public Vows 314
109. Superiors 318
Synod: see Diocesan Synod
110. Terminology: Use of Masculine Gender 330
111. Third Orders 331
Treasurers: see Bursars
112. Visitation, Canonical 332

PAGE
113. Vocation, Religious 336
Vow of Chastity: see Chastity, Vow of
Vow of Obedience: see Obedience, Vow of
Vow of Poverty: see Poverty, Vow of
114. Vows 340
Appendix 345
Index of Canons 347

Religious in Church Law

1. ABBESS

A word of the same etymological origin as *abbot*. (See Abbot.) As the superior of a monastery of Benedictine monks was called *abbot*, so the superioress of a convent of Benedictine nuns was given the title of *abbess*. The same term has found a place in some other orders, such as the Poor Clares. Not all orders, however, have adopted this title; for instance, the nuns of the Visitation. Likewise the term is not in use in the congregations of *sisters*, who address their various superioresses simply as *sister*, or *mother-superior, mother-provincial, mother-general*.

2. ABBOT

I. *Office.*

II. *Blessing.*

III. *Pontifical rights and powers.*

IV. *Abbots President, Archabbots, Abbots General.*

V. *Abbot Primate.*

I. Office

1. *Abbot* is a word derived from the Aramaic form *abba*, meaning *father*. The term was first used as an honorary title and implied no authority. The title was given to monks who, because of venerable age or eminent sanctity, commanded greater respect and admiration. This was done in the Benedictine and other orders that adopted the rule of St. Benedict, such as the Cistercians and the

Camaldolese. This same title is still in use among some of the Regular Canons, although these religious are not classified as monks.

II. Blessing

2. Regulars who are legitimately elected to the dignity of abbot, with governing powers, must receive the corresponding *blessing*. This blessing is not the same as episcopal *consecration,* but is a special liturgical rite, to be performed by a bishop, by which the recipient is deputed to the office of abbot. The newly elected abbot must receive this blessing from the bishop of the place where the monastery is located within three months from the date of his election. (Can. 625.)

III. Pontifical Rights and Powers

3. Though they are not bishops, abbots enjoy the following pontifical powers and rights, after having received the above mentioned blessing: (*a*) They may confer the tonsure and minor orders on religious who by their profession, whether solemn or simple, are their subjects, provided they are themselves priests (Canons 625, 964, n. 1); (*b*) in their own churches (and within the limits of their territory, if they have territorial jurisdiction) they may use the pontifical insignia, mitre and crozier, with throne and canopy, and celebrate the Divine Offices with the ceremonies belonging to episcopal functions; (*c*) they may wear the episcopal cross and a ring set with a precious stone. (Canons 625, 325.)

IV. Abbots President, Archabbots, Abbot General

4. An abbot, as such, has jurisdiction only over one monastery or local community. According to St. Benedict's ideal, the various monasteries of his order were to be independent of one another, with no common superior

over all, or over a group of them. As the order grew in number and continued to spread more widely, monasteries were at times grouped together with an abbot at the head of a group. The formation of such groups under a common superior was a departure from St. Benedict's original ideal and was calculated to interfere with the autonomy of the individual monasteries and their abbots. But owing to its many good features and the sanction of the Church it has been received with such favor in the Benedictine Order that today this discipline is practically universal. At the same time care has been taken that the traditional ideal would, as far as possible, be preserved; and this has been done by leaving to the local communities as much autonomy as is compatible with the formation of these groups.

The Code refers to these groups and their superiors in Canon 488, n. 2, where it defines a *monastic congregation:* the union of several independent monasteries under the same superior; and in n. 8 of the same Canon where superiors of monastic congregations are classed with those termed *higher* superiors. (See SUPERIORS.) The superior of a monastic congregation is called archabbot, or president, or abbot general as may be the custom in different congregations.

V. ABBOT PRIMATE

5. In Canon 488, n. 8, besides the abbots who are superiors of monastic congregations, the Code mentions the abbot *primate.* This abbot is at the head of the federation, or union of the several congregations of the so-called *black* Benedictines. The black Benedictines derive their name from the color of their habit, and are thus distinguished from those congregations which profess the rule of St. Benedict but wear a different color, such as the Cistercians, who wear white, and the Sylvestrines, who wear blue. The federation of the congregations of the black Benedictines was sanctioned by the apostolic letters of Leo XIII,

dated July 12, 1893. It was this same Roman Pontiff who, in order to unify the federation, established the office of *abbot primate*. This primate is at the same time the ordinary abbot of the College of St. Anselm in Rome, Italy.

The object of the federation with the primate at its head is to bind the various congregations together in closer union, without interfering with their constitutions and retaining the rights and privileges of individual monasteries. In keeping with this object, the office of primate places him above all the abbots of the federation, without, however, giving him all the rights and powers which a general of an order has over all its superiors.

3. ACTA APOSTOLICAE SEDIS

The *Acta Apostolicae Sedis* is a periodical which is issued in Rome about twice a month by authority of the Holy See. It is the official organ by means of which the Holy See usually promulgates its laws. Once a new law is published in the *Acta*, it needs no further promulgation unless in some particular case the legislator provides differently. Besides, this periodical contains other acts of the Apostolic See which may be of interest to the various classes of clergy and people, such as pontifical letters, acts of the consistories, answers given by the Sacred Congregations, sentences passed by the Roman tribunals, appointments of bishops and other dignitaries, etc.

4. ADMISSION TO A RELIGIOUS INSTITUTE

1. The requirements for admission to a religious institute are briefly summed up in Canon 538, where it is stated that anyone who (*a*) is a Catholic, (*b*) has no legitimate impediment, (*c*) is prompted by a right intention, (*d*) has sufficient aptitude for bearing the burdens

of the religious life, may be admitted to a religious institute.

2. (*a*) One must be a Catholic; that is, must actually be a member of the Catholic Church, since a religious institute, as a *society,* is part of the Catholic body, and in Canon 487 the religious state is defined as a permanent manner of life by which the *faithful* undertake to observe the evangelical counsels.

3. (*b*) One must be free from all legitimate impediments. What these impediments are is explained in the article on NOVITIATE.

4. (*c*) One must be prompted by a right intention. The right intention in this matter is that which corresponds to the main object of the religious life: the acquirement of Christian perfection.

This intention does not need to be absolutely explicit. Anyone who wishes to follow Christ more closely, or to reach his eternal salvation more securely, or to be able to work for the glory of God and the salvation of souls at the sacrifice of his own comforts, does not lack the necessary right intention.

On the other hand, purely human motives are excluded. If, for example, an aspirant should entertain the erroneous idea that the religious state is a comparatively easy one, and preferable to a life of care in the world, or were to enter religion out of mere friendship for another person already a religious, he would not, of course, be actuated by the right motive. In these and similar cases the motives may not be bad in themselves, but they are not in keeping with a state of life which has as its chief object the attainment of Christian perfection. It may happen, however, that though insufficient in themselves such motives will help to pave the way to a truly right intention. By reflection, prayer and advice the human element may be purified or made subservient to a higher motive which will eventually predominate in the choice of the religious state.

5. (*d*) One must be fit to bear the burdens of the religious life in general, and of the life peculiar to the institute which one wishes to join.

In general, the religious life requires a sound mind in a sound body, with a character capable of adapting itself to religious discipline. This, of course, does not mean that aspirants should be so well equipped as to leave nothing to be desired morally, mentally and physically. It means only that an aspirant must be free from defects which render him unfit to perform the ordinary duties of a religious, or incapable of leading the common life of a community.

Morally, these defects might be summarized as: such a tenacity of judgment and stubbornness of will which make it almost impossible for a person to bend under the yoke of obedience or to live in peace with different companions in the same house and community. But, apart from extraordinary cases, persons so constituted are not easily to be denied the test of the postulancy or novitiate, during which a resolute will, strengthened by prayer and aided by practice and the good example of others, may accomplish marvellous changes in this regard.

Mentally, these defects are: insanity of every form, paranoia, silliness, imbecility, etc.

Bodily defects are: chronic infirmities which make a person incapable of sustaining the ordinary inconveniences that are inseparable from the religious life.

6. In particular cases it may be difficult to decide whether one has the necessary qualifications mentally and physically. In this regard also the peculiar character of the institute which one wishes to join must be taken into consideration. Not every institute requires the same degree and kind of mental and physical ability. If the spiritual director has passed a favorable judgment upon an applicant, the superior must determine whether, as far as may be ascertained at the time of entrance, he may be admitted

into the novitiate. Great care should be exercised in this matter by both the superior and the candidates: the candidates should conceal no disease that would render them unfit to enter the community; the superior must adequately question the candidates and exact from them a medical certificate of health. Any other action on the part of the candidates might invalidate their profession, while disregard of the necessary precautions on the part of superiors might expose the community to the danger of being obliged to retain for life subjects unfit for the institute. The foundation for these statements is to be found in the canons which declare that ill health is no sufficient cause for dismissal except it be clearly proved that before profession the religious had fraudulently hidden or dissimulated the illness. (Cans. 637, 647, § 2, n. 2; see DISMISSAL, ¶¶ 7, 12.)

5. APOSTATES AND FUGITIVES

1. Apostates *from the religious state* must not be confounded with apostates *from the Christian faith,* who are also called simply *apostates.* Apostates *from the Christian faith* are baptized persons who renounce the Christian faith *entirely,* and are distinguished from *heretics* who, once baptized, retain the name of Christian, but deny any of the revealed truths which according to Catholic teaching are of faith. (Can. 1325.)

2. Apostates *from the religious state* are professed of perpetual vows, whether solemn or simple, who leave a religious house unlawfully with the intention of not returning, or who, having left the house lawfully, do not return, because they wish to withdraw themselves from religious obedience. (Can. 644, § 1.) What, then, chiefly constitutes apostacy from the religious state is, besides absence from the religious house, an *internal* act of the will; that is, in the case of an *unlawful* leaving, the *inten-*

tion of not returning, and in the case of a *lawful* leaving, the intention of withdrawing from religious obedience. When this internal act, or *malicious intention,* as the Code calls it, is lacking, one is not an apostate, but, unless one can prove the contrary, the malicious intention " is presumed by the law, if, within a month the religious has neither gone back nor has manifested to superiors his intention of doing so." (Can. 644, § 2.) We say: " unless one can prove the contrary," because it might happen that one had the intention of returning within a month or of informing his superior in due time, as the law requires, but was prevented by some accident from carrying out his intention; for instance, if he fell sick in the meantime, in which case, if he could prove the facts, the law would not consider him an apostate.

3. *Fugitives* are religious who desert a religious house without permission of their superiors, but have the intention of returning to the institute. (Can. 644, § 3.) Authors quite commonly remark that, in order to be a fugitive in the strict sense of the law, in going out without permission one should be prompted by a desire of enjoying, at least for a short time, *freedom from religious obedience.* Hence if one went out without permission merely to take exercise or transact some business, one would, of course, act unlawfully, but would not be a fugitive in the sense of the law.

4. Apostates and fugitives are in no way released from obligations arising from their rule and vows, and must return to their institute without delay. (Can. 645, § 1.)

5. Fugitives' religious superiors must seek them diligently and must receive them if they return with signs of sincere repentance. In the case, however, of apostate or fugitive *nuns*, it is the local Ordinary, who, with due prudence, must see that they return, and, if the monastery is exempt, the same shall be done by the regular superior. (Can. 645, § 2.) (See SANCTION, ¶¶ 11, 12.)

6. APOSTOLIC SEE

1. In the Code the terms *Apostolic See* and *Holy See* designate (*a*) the Roman Pontiff and (*b*), unless their meaning is restricted by the nature of the subject matter or by the context, they designate also the *Congregations, Tribunals* and *Offices* through which the Roman Pontiff ordinarily transacts the affairs of the Universal Church. (Can. 7.)

2. The *Congregations* are bodies of Cardinals, endowed, chiefly, with *executive* authority; the *Tribunals* enjoy *judicial* powers; and the *Offices* are intended chiefly for preparing and forwarding pontifical documents of various kinds.

All these departments have ordinary faculties. These, however, cannot always be exercised without recourse to the Roman Pontiff. Moreover there are affairs, which, either of their own nature, as the definitions in matters of faith and morals, or by reason of their importance, as the exercise of judicial power over Cardinals and Legates of the Holy See, are reserved to the Roman Pontiff.

3. Here special mention must be made of the S. Congregation of *Religious,* technically called " The S. Congregation in Charge of the Affairs of Religious." The powers of this Congregation over religious extend to their government, studies, property and privileges. It belongs to it to settle questions that may arise between religious and religious, between religious and bishops, and between religious and other persons, unless a question has to be treated with all the *formalities of a regular trial* (*judiciario ordine servato*) which is reserved to the Tribunal of the Sacred Roman Rota. Likewise it belongs to the same Congregation to grant to religious, dispensations from vows and from the general laws of the Church, whether there is question of laws to which religious are subject *as religious;* for instance, those on enclosure, or of the laws

to which religious may otherwise be subject; for instance, those on fasting, the recitation of the Divine Office, etc.

On the other hand, the jurisdiction of this Congregation of Religious is limited in regard to the following points: It belongs exclusively to the S. Congregation of the Holy Office to punish crimes against faith, and to grant to religious priests a dispensation from the law of fasting before the celebration of Mass. Moreover, in countries that are subject to the S. Congregation of Propaganda, religious, *as such,* depend on the S. Congregation of Religious, but *as missionaries* they are subject to the S. Congregation of Propaganda; for example, in the administration of the sacraments, in preaching, etc. (Cans. 251, 247, 250, 252.)

4. Since the publication of the Code of Canon Law, the Sovereign Pontiff, Benedict XV, established a permanent Commission of Cardinals whose office is to issue authentic interpretations of the Code. Its full title is: "Pontifical Commission for the Authentic Interpretation of the Canons of the Code." In this work we call it: "Pontifical Commission on the Code."

5. In writing to the Holy See, the English language may be used, but it is more advisable to use Latin, Italian or French.

Letters are addressed to the Cardinal who is the *Prefect* or, in the case of the Congregation of the Holy Office, the *Secretary* of the Congregation.

6. We give the addresses of the Congregations which have been mentioned above:

(*a*) The S. Congregation of Religious

All'Eminentissimo Cardinale
Prefetto della S. Congregazione dei Religiosi
Palazzo della Cancelleria
Roma (*Italy*)

(*b*) The S. Congregation of the Council

The same address; but instead of *dei Religiosi,* write *del Concilio.*

(*c*) The S. Congregation of Propaganda
All'Eminentissimo Cardinale
Prefetto della S. Congregazione di Propaganda
Palazzo di Propaganda
Piazza di Spagna
Roma (*Italy*)

(*d*) The S. Congregation of the Holy Office
All'Eminentissimo Cardinale
Segretario della S. Congregazione del S. Officio
Palazzo del S. Officio
Via S. Uffizio, 5
Roma (*Italy*)

(*e*) If one should have to write to the Sacred Tribunal of the Roman Rota, the address is:

Al Tribunale Ecclesiastico della Sacra Rota
Via della Dataria
Roma (*Italy*)

7. BURSARS

1. A *bursar* is an official who, under the direction of superiors, has charge of the administration of the temporalities of a community. Not only the whole institute, but each province and each house must have its own bursar. (Can. 516, § 2.)

2. The office of *general* and of *provincial* bursar must not be held by the superior himself. It is expedient to keep the office of *local* bursar distinct from the office of superior, unless necessity requires that both offices be vested in one person. (Can. 516, § 3.)

3. If the constitutions do not determine how these officials are to be chosen, their appointment is left to the higher superior with the consent of his council. (Can. 516, § 4.)

8. CANONS REGULAR

1. The *Canons Regular* form a class of clerical institutes whose members devote themselves to works related to the divine mysteries, especially to the recitation of the canonical hours in the choir. In ancient writings the Canons Regular are described as professing *sanctitatem et clericatum*. They live in community, they lead the life of religious, they sing the praises of God by the daily recitation of the Divine Office in the choir, but, at the same time, at the bidding of their superior they are prepared to exercise the sacred ministry, to attend to the spiritual welfare of the faithful and to engage in various kinds of spiritual and corporal works of mercy.

2. The characteristic feature of their dress is the rochet, which, in some cases, has been replaced by a small linen band. With regard to other parts, their dress, as a general rule, is similar to that of other members of the clergy, though some have added a scapular. The color is left to custom and the constitutions; white is prevalent.

3. The following list gives the names of the existing orders of Canons Regular and the date of their foundation:

Canons Regular of the Lateran (of Our Most Holy Saviour)	450 (?)
Canons Regular of the Lateran (Austrian Congregation)	1140
Hospitaller Congregation of the Great St. Bernard	11th cent.
Swiss Congregation of St. Morits d'Agaune	1128
Premonstratensians	1120
Canons Regular of the Holy Cross (Crosiers)	1211
Crosiers of the Red Cross	
Canons Regular of the Immaculate Conception	1866

9. CARDINAL PROTECTOR

The *Cardinal Protector* of a religious institute is appointed by the Holy See. *As such* he has no jurisdiction over the institute or its members and he cannot interfere in its interior discipline or the administration of its property, unless in particular cases he expressly receives special powers. Accordingly his office is limited to promoting the welfare of the religious institute by his advice and patronage. (Can. 499, § 2.)

10. CAUSAE PIAE

1. The Latin term *causae piae* designates pious works, *religious* or *charitable;* for instance, the celebration of Masses or the relief of the poor, to which money, or the equivalent, given by will, or legacy, or donation, must be applied according to the intention of benefactors.

2. Property thus contributed falls under the vigilance of the Ordinary, who has the right and the duty to see that the will of the benefactor is properly carried out. (Can. 1515.) This Ordinary is the Ordinary *of the place* if the religious community to whom the property is entrusted is not exempt; it is one of the higher superiors if it is exempt. (Can. 198.)

3. In the case of property entrusted to a religious community for establishing pious works *permanently,* the special enactments contained in the canons on pious trusts must be observed. (See Pious Trusts.)

4. When property to be applied to pious works is entrusted to *one of the members* of a religious community, the Ordinary must be notified of the property contributed and of the corresponding obligations, in order that he may be able to fulfill his duty of supervision. (Can. 1516, §§ 1, 2.) In such cases:

(*a*) If the money has to be applied to a church of the

diocese or has to be used for the benefit of charitable works or of the inhabitants of the same, the Ordinary to be notified is the Ordinary *of the place.*

(*b*) If it has to be applied to other purposes, it is the Ordinary *of the religious* to whom the money has been given. (Can. 1516, § 3.)

Accordingly:

(*a*) When money is left or donated to build a parochial church, or a hospital, or a house for destitute children, notification must be sent to the Ordinary of the place where these edifices are to be established.

(*b*) When it has to be used for the relief of the poor, or the sick, etc., and the place whose inhabitants are to be benefited thereby is not determined by the benefactor, notification must be given to the Ordinary *of the religious* to whom the money has been entrusted. This Ordinary *of the religious* is the Ordinary *of the place* where the religious resides if the latter (religious) is not exempt; it is *one of the higher superiors,* if he is exempt. (Can. 198.) By the Ordinary of the religious is likewise understood one of his higher superiors in the case of a bequest or donation which has for its purpose the building or support of a non-parochial church *of exempt* religious, because, strictly speaking, such a church is not a church *of* the diocese.

11. CHANGE OF INSTITUTE

I. *Permission required for change.*

II. *Novitiate and profession.*

III. *Effects of change.*

I. Permission Required for Change

1. According to Canon 632, without permission of the Holy See, religious are not allowed to pass (*a*) from one institute to another, even though the latter were stricter;

or (*b*) from one independent monastery to another if the change implies a permanent transfer by which a religious loses his affiliation with one monastery and becomes incorporated in another; a change purely local, even though made for an indefinite period of time, between two independent monasteries, does not seem to fall under the provisions of this canon.

The law affects all institutes, whether pontifical or diocesan.

2. This canon may be better understood by recalling the two different ways in which religious institutes are organized: (*a*) Many of them are fully organized societies with their several communities, all depending on a general government; (*b*) others are so organized that their individual communities are more or less independent of one another and of any general government even though these communities have formed among themselves unions and federations. (See RELIGIOUS INSTITUTE ¶¶ 3, 4; MONASTIC CONGREGATION; ABBOT, ¶ 4.) The permission of the Apostolic See is not required to effect a change between two *provinces* of the *same institute* (order or congregation) belonging to the former class. (*a*) But it is required when the change is made (1) between two religious *institutes* which belong to the former class (*a*), or (2) between two communities that belong to the latter class (*b*); or (3) between two organizations of which one belongs to the former and the other to the latter class. Accordingly, permission is necessary (1) to change from the Order of Preachers to the Order of the Friars Minor, from the Order of the Friars Minor to that of the Conventuals, from the Congregation of the Sisters of Notre Dame to that of the Sisters of St. Dorothy or of the Religious of the Sacred Heart, etc.; (2) to effect a change between two monasteries of the Poor Clares or of the Discalced Carmelites, or between two monasteries of the Cistercians or of the Benedictines (even though these belong to the same

Monastic Congregation; (3) to change from the Order of Preachers to that of the Benedictines.

II. Novitiate and Profession

3. (1) In the case of a change of *institute,* the religious must repeat his noviceship and make a new profession. In the case of a change from one monastery to another, both of which pertain to the same order, *e.g.,* the Poor Clares, neither the noviceship nor the profession is repeated. But should the change involve a transfer from one order to another, *e.g.,* from the Poor Clares to the Carmelites, both noviceship and profession are repeated. (Can. 633, §§ 1, 3.)

4. (2) While a religious is repeating his noviceship:

(*a*) His religious vows remain; but

(*b*) The rights and obligations which are peculiar to the religious institute which he left are suspended, and

(*c*) In the institute which he intends to embrace he is bound, by his vow of obedience, to obey its superiors, and even the master of novices. (Can. 633, § 1.) Moreover, he must wear the habit of the novices of that institute. (S. Congregation of Religious, May 14, 1923. *Acta Apostolicae Sedis,* XV, 289.)

Accordingly:

(*a*) He cannot, for instance, use things without permission under penalty of committing a sin against the vow of poverty.

(*b*) If in his former institute he had the right to vote in the election of superiors and other officials, he cannot exercise this right, and if in the same institute there was the obligation of reciting the Divine Office at night, this obligation does not now bind him.

(*c*) The vow of obedience, which before obliged him to obey the superiors of his former institute, now binds him to obey the superiors of his new institute. By this vow

he has obliged himself to obey his lawfully constituted superiors, who now are the superiors of his new institute.

5. (3) If he does not make his profession in the new institute, he must return to his former institute, unless in the meantime his temporary vows have expired. (Can. 633, § 2.)

6. (4) If in the institute from which he comes he had taken *solemn* or simple *perpetual* vows and his new institute is one with *solemn* or simple *perpetual* vows, he need not make the *temporary* profession of three years of which there is question in Canon 574, but, after his novitiate, he must either be admitted to *perpetual* profession, solemn or simple, as the case may be, or he must return to his former institute. His superior, however, has the right to extend the time of his probation, but not beyond another year from the end of his novitiate. (Can. 634.) (See PROFESSION, RELIGIOUS, ¶¶ 3, 10, ff.)

7. (5) If in his former community he had taken solemn vows and in his new community, a religious congregation, he takes simple vows, the solemnity of his former vows ceases, unless a different provision is made in the apostolic indult. (Can. 636.)

III. EFFECTS OF CHANGE

8. (1) From the time of new profession, in the case of a change from one institute to another, and from the day of entrance, in the case of a change between two monasteries of the same order, those who make a change lose all their rights and are no longer bound by the obligations which they had in their former institute or monastery, but they acquire the right and assume the obligations of their new monastery or institute. Thus, for instance, they lose the right of active and passive voice which they may have acquired in their former community, and are no longer obliged to observe the fasts which are of rule in it, while in their new community they acquire

the right of precedence and are bound to fulfil new duties as the constitutions may define. (Can. 635, n. 1.)

(2) With regard to property:

9. (*a*) The institute or monastery from which they come retains the ownership of the property which it may have acquired through them. (Can. 635, n. 2.) Such is property which the religious has acquired by his industry after joining the community (Can. 580, § 2), or of which he has disposed in favor of the community before taking solemn vows (Can. 581, § 1), or which was left to him after taking solemn vows. (Can. 582, n. 1.)

(*b*) As to the institute or monastery which the religious join: from the time profession is made in the new institute, or from the time of entrance into a monastery of the same order, the new community has a right to the dowry and the interest. (Can. 635, n. 2, with Can. 551, § 2.) Moreover, the new institute has a right to some just compensation for the expenses of the novitiate, if this compensation is required by the constitutions or by a formal agreement (Can. 635, n. 2, with Can. 570, § 1), and it would seem that this compensation has to be supplied from the *interest* of the personal property (if the religious had any) *corresponding* to the time of the noviceship, and, in the case of women, from the corresponding interest of the dowry. (Can. 635, n. 2, with Cans. 551, § 2, 570, § 1.)

12. CHAPLAINS

1. A *chaplain* is a priest who in lay institutes has charge of the divine services. He assists the community by saying Mass, distributing Holy Communion and giving Benediction of the Blessed Sacrament. As to the time and other circumstances connected with the celebration of the Divine Offices he has to follow the laws of the Church, the statutes of the diocese and other regulations of the Ordinary.

2. In non-exempt lay institutes the right to appoint the

chaplain and to approve the preacher belongs to the Ordinary. In exempt lay institutes the right to designate the persons who are to act as chaplains or to preach rests with the religious superior; but in case he fails to designate them, it belongs to the Ordinary to provide; in any case they receive the approval for preaching from the Ordinary. (Cans. 479, § 2, 529.)

3. With regard to Holy Viaticum, Extreme Unction and *Christian* burial, see LAST SACRAMENTS; FUNERALS; PREACHERS.

13. CHAPTERS AND COUNCILS

1. A *chapter* is the union of certain members of a religious institute with power to discuss and define the more important affairs of the community. A *council* is primarily a board of advisors destined to assist the superiors in determining certain affairs of the community.

2. Chapters and councils may be *general, provincial,* or *local,* according as their powers regard the affairs of the whole institute, of a province or of a local community. Local chapters are more common in monastic orders than in non-monastic institutes. The latter often have no local chapters. All institutes, however, must have local councils in accordance with Canon 516, § 1, which requires that not only every superior general, every superior of a monastic congregation and every provincial, but also every superior of a local community, at least when this enjoys the standing of a formal house, should have his counsellors. (Can. 516, § 1.)

3. It is left to the constitutions to define the conditions under which religious may become members of a chapter, and whether this right follows a certain order of seniority or is acquired by election. It is also left to the constitutions to define the manner of electing or appointing the members of a council.

4. Chapters and councils may take part in the affairs of the institute in three different ways: (*a*) Sometimes the matter is to be defined directly by their authority; (*b*) sometimes directly by the authority of the superior, who, however, cannot act without the *consent,* or (*c*) the *advice* of one or the other of these two bodies.

In the first case, (*a*) the matter is decided *by* the chapter or council itself. The vote has, of itself, force of law, unless the law or the constitutions require the confirmation of some higher superior. Thus, if for instance it belongs to the provincial chapter to make a purchase for which the sum of a thousand dollars is required, and the chapter votes in favor of the purchase, the provincial cannot interfere with the chapter in effecting the transaction. This kind of intervention belongs to the chapter or council, when the law or the constitutions state that a certain act has to be performed *by* one of those two bodies. In the second case (*b*) when, namely, the law or the constitutions state that the power to perform an act rests *with the superior, with the consent* of the chapter or council, the affair is decided by the *superior,* and the favorable vote of one of those bodies is only a prerequisite condition which must be verified in order that the superior may act *validly.* Consequently, in the case of a purchase to be made by the superior with the consent of his chapter, if that body votes against it, the superior *cannot* make the purchase, and if he acts against the consent of the chapter, the transaction is invalid. In the third case (*c*) when, namely, the law or the constitutions state that the power to perform an act resides in the *superior* with the *advice* of the chapter or council, the dependence of the superior on these bodies is of a still lower degree. In these cases, in order to act validly, the superior must first *hear* their opinion, but once he has heard it, his action will be valid even though it is contrary to their vote. Thus, if there is question of a purchase which according to the constitutions

has to be made by the superior with the advice of his chapter, he cannot validly make the purchase without having consulted it, but after having consulted it, he may make the purchase validly, even though the chapter voted against it. We say that such a superior would act *validly;* that is to say, his transaction would stand, but in regard to the lawfulness of his action, if the vote of the chapter was unanimous, he should not act against it without having some special reason. (Can. 105, n. 1.)

5. What the cases are in which these bodies have the right and duty to take part in the affairs of the institute in one or the other of these various ways is defined in the law and the constitutions.

6. Thus, as far as the *law* is concerned, according to Can. 516, § 4: If the constitutions are silent on the manner of electing the bursars, these shall be selected by the higher superior with the consent of his council.

Canon 534, § 1: For contracting debts it is necessary to have the permission of the superior with the consent of his chapter or council. (See COMMUNITY PROPERTY, ¶ 8.)

Canon 543: The right to admit to the novitiate and to the religious profession belongs to the higher superiors, with the vote of the chapter or council; which vote may be decisive or advisory in the case of admittance into the novitiate, must be decisive (equivalent to a consent) in the case of the temporary profession, and advisory (equivalent to an advice) in the case of the perpetual profession. (Can. 575, § 2.) (See NOVITIATE, ¶ 17; PROFESSION, RELIGIOUS, ¶ 4.)

Canon 549: The duty to invest the dowries lies on the superioress with her council. (See DOWRY, ¶ 9.)

Canon 571, § 1: Novices may be dismissed by the superior *or* by the chapter. (See DISMISSAL, ¶ 2.)

Canon 647, § 1: In pontifical institutes the dismissal of religious with temporary vows can be effected by the superior general with the consent of his council. (See DISMISSAL, ¶ 6.)

Canon 650, § 1: Before the dismissal of religious with perpetual vows may take place in a non-exempt clerical institute or in a lay institute of men, it belongs to the superior general with his council to deliberate whether the case be one of dismissal. This deliberation is taken by the whole body (composed of superior and council) not by the superior alone, with only the advice of the council. (Can. 650, § 2.) (See DISMISSAL, ¶ 17.)

Canon 653: In cases of urgent necessity that may occur in the institutes just mentioned the religious can be dismissed by the higher superior, or if there be danger in delay and there be no time for having recourse to the higher superior, this may be done by the local superior, with the consent of his council and of the Ordinary of the place in the latter case. (See DISMISSAL, ¶ 24.)

Canon 655, § 1: The right to pronounce the sentence of dismissal on a religious with perpetual vows in an exempt clerical institute belongs to the superior general with his council or chapter. This sentence is passed by the whole body (composed of superior and chapter or council), not by the superior alone with only the advice of the chapter or council. (Can. 665.) (See DISMISSAL, ¶ 26.)

Canon 668: In cases of urgent necessity that may occur in institutes just mentioned, the religious can be dismissed by the higher superior, or, if there be danger in delay and there be no time to have recourse to the higher superior, dismissal may be made by the local superior with the consent of his council. (See DISMISSAL, ¶ 32.)

Reading these canons it may be noticed that the law does not always define which of the two bodies — namely, the chapter or the council — has the right to intervene, nor what kind of assistance it should lend. When the law leaves these points undefined, they will have to be settled by the constitutions, or by customs legitimately approved in the institute.

7. In regard to the number of votes which is required to obtain the legal action of these bodies, the constitutions must first be consulted, and if these embody definite rules on this point, they must be followed.

In the absence of special enactments, the general rule laid down in Canon 101, § 1, n. 1 is that the legal action of corporate bodies is represented by the absolute majority of all valid votes; invalid votes, as, for instance, blank votes, are not to be counted. An absolute majority occurs when all the votes (excluding those that are invalid) are divided into two groups of *unequal* numbers. The larger of the two groups constitutes the absolute majority. Thus, in the case of a chapter composed of thirty members, if two votes are invalid and the twenty-eight valid votes are divided into two groups of 15 and 13, fifteen constitutes the absolute majority.

8. If at the first ballot no measure obtains the absolute majority, Canon 101, § 1, n. 1 (dealing with *corporate* bodies which have no rules of their own in this matter), lays down other rules to be followed. It may be asked whether *chapters* and *councils* for which the constitutions do not prescribe special rules in this matter, must follow the rules prescribed in Canon 101, § 1, n. 1, and it seems that they do, whether (*a*) there is question of cases in which the matter is defined directly by the authority of these bodies, or (*b*) when the matter is defined directly by the authority of the superior but *with their consent,* not, however, (*c*) in cases in which the superior is only bound to hear their *advice.*

9. The rules of Canon 101, § 1, n. 1, are the following: If there is no absolute majority at the first ballot, a second, and, if necessary, a third ballot should be taken. If at the third ballot no absolute majority is reached, but there is a *relative* majority, this relative majority suffices. A relative majority supposes that the votes are divided into more than two groups. The highest of these several groups

constitutes the relative majority. Thus, if thirty valid votes are divided in groups of 12, 9 and 9, the relative majority is twelve. It may happen, however, that not even a relative majority is obtained because the *highest* groups or *all* the groups are equal in their number; for instance, when thirty votes are divided in groups of 12, 12, and 6, or in groups of 10, 10, and 10. In such cases the president should cast a decisive vote in favor of one of the equal groups, thus giving one of them the required majority. When there is question of *elections,* the president may waive this right and then the election falls on the candidate who is senior by ordination, priority of profession or age. Ordinarily, chapters and councils are presided over by a religious superior according to the constitutions; as to the chapter by which the superior of an institute of women is elected, see ELECTIONS.

10. There are cases in which neither the relative nor the absolute majority is sufficient, but the unanimous consent of all is required. Unanimous consent is necessary when there is question of a measure which affects the interests of each individual so closely that it would be unjust to enforce it without the consent of every member. This happens when a change is proposed in some matter of importance, which neither explicitly nor implicitly was agreed to by the members at the time they made their profession. Cases in point are: to change the main scope of the institute; to take up permanently obligations which are in no way contained in the constitutions nor are sanctioned by legitimate custom; to unite two institutes in such a way that each of them loses its own individual personality.

14. CHARITABLE INSTITUTIONS

I. *Definition.*

II. *Division.*

III. *Permission for opening.*

IV. *Dependance on Ordinary of the place.*

I. Definition

1. Under this heading we group all the institutions whose object is the performance of works of charity or mercy, as hospitals, homes for the poor, orphan asylums, etc.

II. Division

2. They are called *ecclesiastical,* if they have been *erected* by a *formal decree* of competent ecclesiastical authority and have thus acquired a *juridical personality* in the Church. A decree to this effect may be given by the Apostolic See, by the Ordinary of the place and by anyone else who has been delegated by either of them.

3 Institutions which have thus acquired a juridical personality are recognized by the Church as *moral persons,* having, to the extent granted by law, rights and duties which resemble those of *physical persons.* In Canon Law, *moral persons* are of two kinds: *collegiales;* that is, *collegiate,* or corporate, and *non collegiales,* that is, *non-collegiate,* or non-corporate. The former are composed of *physical* persons, although, in so far as they form a *moral* body, their rights and obligations reside, according to law, in their aggregate, and not in the individuals; they correspond to the *corporations aggregate* in civil law. The latter are not composed of physical persons, and it is only by a legal fiction that they are considered as being the subjects of rights and obligations, which, in point of fact, are exercised by their officials and administrators. Religious communities belong to the former class; charitable institutions belong to the latter class.

III. Permission for Opening

4. For opening charitable institutions, religious, even though exempt, need the permission of the Ordinary of the place. This permission is sufficient, if they already possess a *religious house* legitimately established and wish to open another and separate institution which will be cared for by members of the former community. Likewise when they wish to establish a *new religious house* with an institution *attached* to it, the permission of the Ordinary of the place is sufficient, except when there is question of regulars, or of nuns, or of any religious community in countries that are under the jurisdiction of the S. Congregation of Propaganda. In these last three cases, besides the permission of the Ordinary of the place, the consent of the Apostolic See is required. (Can. 497.) (See Religious House.)

5. The mere *permission* given by the Ordinary of the place to open a charitable institution is not sufficient for raising the latter to the condition of a *moral person,* distinct from the religious community which is in charge of it. In order to acquire a juridical personality *of its own,* the institution must have been *erected* by a formal decree of the competent ecclesiastical authority as has been stated above; otherwise it is simply a work taken up by the religious community on which it depends.

IV. Dependence on Ordinary of the place

6. As to the dependence of these institutions on the Ordinary of the place:

(1) (*a*) Charitable institutions established as *moral persons,* even though otherwise exempt, are subject to the episcopal visitation. (Can. 1491, § 1.)

(*b*) When they are not so established:

(i) They are entirely subject to the jurisdiction of the Ordinary of the place, if they are en-

trusted to a religious community belonging to a *diocesan* institute. (Can. 1491, § 2.)

(ii) If they are entrusted to a religious community belonging to a pontifical institute, they are subject to the vigilance of the same Ordinary in all that pertains to religious instruction, correctness of morals, pious exercises and the administration of sacred things. (Can. 1491, § 2.)

(2) Even in the case of a charitable institution exempted from the visitation of the Ordinary of the place, whether the exemption is due to prescription, or to the laws of foundation, or to an apostolic privilege, the same Ordinary has the right to demand an account of the administration, and every custom to the contrary is condemned. (Can. 1492, § 1.)

(3) These enactments are in keeping with Canon 1525, requiring that the administrators of ecclesiastical pious institutions give an annual account of their administration to the Ordinary of the place.

15. CHASTITY, VOW OF

I. *Definition.*

II. *Division.*

III. *Virtue and Vow.*

I. Definition

1. The *vow of chastity* is a promise made to God to abstain from all actions which are contrary to this virtue. It purposes to practice chastity in its perfection, hence: (*a*) it forbids all acts of lust, whether these are external or purely internal, such as desires and voluntary pleasure; (*b*) it forbids not only what in this matter is sinful be-

cause contrary to the sixth and ninth commandments, but also what is lawful in the matrimonial state.

II. Division

2. The vow of chastity may be *simple* or *solemn*. The obligations which arise from these two kinds of vows are the same, but there is a difference in their effects in relation to the marriage bond. Thus, if, in spite of the simple vow of chastity a religious should contract a marriage, his action would be sinful, but it would not be invalid; that is, the marriage would be a true one; whereas if a religious bound by a solemn vow of chastity should attempt to contract a marriage, his action would be null and void. (Can. 1073.) (See Sanction, ¶ 14.)

III. Virtue and Vow

3. Between the virtue and the vow of chastity there is no difference in so far as the subject matter of both is concerned because, as has been said above, the vow forbids all acts which are opposed to the virtue of chastity.

16. CHURCHES

1. Religious need the permission of the Ordinary of the place to open a *church*. In the case of a clerical institute, this permission is contained implicitly in the faculty given by the Ordinary to establish a house in the diocese or in a city (Can. 497, § 2), but before selecting the site where they intend to build the church, the explicit permission of the same Ordinary is needed. (Can. 1162, § 4.)

This article deals with the laws which govern the holding of a church by religious, prescinding from the element peculiar to a *parochial* church. What has special reference to a religious church in so far as it may be also parochial, may be found in the article on Parish.

2. The right to *consecrate* a church of religious belongs to the Ordinary of the place, and even before having received the episcopal character, he may grant permission to perform the consecration to any other bishop of the same rite. (Can. 1155.)

3. The right to *bless* a church of religious belongs to the Ordinary of the place if the institute to which the church belongs is not exempt, or is a lay institute. If the institute is clerical and exempt, the right belongs to one of the higher superiors (the general or the provincial). In both cases, he who has the right to bless the church may delegate another priest to perform the rite. (Can. 1156.)

4. Once the church has been duly blessed or consecrated, it is allowed to carry out therein all ecclesiastical rites, provided there is no question of rites which are reserved to pastors, like solemn Baptism, or to some other church by virtue of a privilege or a legitimate custom. (Can. 1171.) Moreover, there are cases for which the law expressly requires the special permission of the Ordinary of the place; for instance, public exposition of the Blessed Sacrament outside the Feast of Corpus Christi and its octave. (Can. 1274, § 1.) Besides, the Ordinary has the right to make regulations concerning the time when the sacred rites may be held, provided there is no question of churches which belong to exempt religious. (Can. 1171.) But if the Ordinary of the place has made laws for the prevention of abuses against the sacred canons concerning public worship, these laws must be observed also by exempt religious whose churches and public oratories would, in such a case, be subject for this purpose to the visitation of the same Ordinary. (Can. 1261.) Finally, rectors, also of churches of exempt religious, must always see that the celebration of the Divine Offices does not interfere with the catechetical instruction and the explanation of the Gospel which must be given in the

parochial church; if there is a doubt whether the celebration does interfere, the right to decide belongs to the Ordinary of the place, even when there is question of a church of exempt religious. (Can. 609, § 3.)

5. Should the Ordinary of the place prescribe the ringing of bells, public prayers or some solemn celebration for any public cause, his orders must be carried out, also in religious churches, even though they belong to exempt religious, without prejudice, however, to the constitutions or special privileges. (Can. 612.)

6. Likewise, if the Ordinary judges that the co-operation of religious is necessary for the catechetical instruction of the people, and applies to them for help, the religious superiors, whether exempt or not, are obliged to give the required instruction to the faithful or appoint their subjects to do so, especially in their own churches, without, however, any detriment to religious discipline. (Can. 1334.)

7. Again, the Ordinary of the place may ordain that on feast days of obligation a short explanation of the Gospel or of some point of Christian doctrine be given in all churches, at all Masses which are attended by the people. This order must be obeyed also in churches of exempt religious. (Can. 1345.)

8. In addition to these cases, in which religious are obliged to give help to the secular clergy, it is the express wish of the law that they should lend the latter their co-operation as far as it is compatible with religious discipline, as is clearly stated in Canon 608. According to this Canon:

Religious superiors must take care that, especially in the places where their subjects reside, when they are asked by the Ordinaries of the dioceses, or by the pastors to assist them in their spiritual ministrations to the people, whether in their own churches or outside them, their religious subjects appointed for the purpose will supply the required help. (Can. 608, § 1.)

Likewise, the Ordinaries of the dioceses and pastors are exhorted to enlist with pleasure the co-operation of religious, especially of those who live in the same diocese, in the sacred ministry, particularly in the administration of the sacrament of Penance. (Can. 608, § 2.)

9. The right of the bishop to use any church for the administration of the sacrament of Confirmation extends also to churches of exempt religious. (Can. 792.)

17. CLERICAL INSTITUTE

1. A *clerical institute* is one in which a great many of the religious are raised to the order of the priesthood. (Can. 488, n. 4.) It does not seem to be necessary that the *majority* should be priests. If the character of the institute requires that a great many of its members be priests, the institute is clerical, even though a great many of its members be brothers. An example seems to be that of the Congregation of the Holy Cross. This congregation is devoted to the exercise of the sacred ministry and to teaching. Its constitutions require that many of its members should be brothers but, in keeping with its objects, they require also that many should be priests. Our opinion is that a congregation of this kind is a *clerical*, not a *lay* institute. On the other hand, if all the members of an institute are brothers, or if, according to its character, and constitutions, a great many of its members must be brothers and only *few* of its members are admitted as priests, the institute will be *lay*. (See LAY INSTITUTE.)

2. Accordingly the Hospitallers of St. John, the Christian Brothers, the Xaverian Brothers are lay institutes. All institutes of women are, of course, lay institutes.

Religious *orders* are, for the most part, clerical institutes. (See MONKS; CANONS REGULAR; MENDICANT ORDERS; CLERKS REGULAR.) Such are also the Redemptorists, the Passionists and other like religious *congregations*.

18. CLERKS REGULAR

1. This term designates a certain class of *clerical* institutes. A *clerical institute* is one in which a great many of its members receive the order of priesthood; it may be a religious *order* or a religious *congregation. Clerks regular* are institutes most of whose members are destined to be priests. They belong to the class of religious *orders* and for this reason they are called *regular.* In this they agree with the *Canons* Regular, but they differ from the Canons Regular in that they are not classed as *canons* with churches that are strictly *collegiate;* they devote themselves more completely to ministerial work in place of choir service, and have fewer penitential observances of rule.

2. The following list of the orders of clerks regular now existing in the Church is taken from the official publication, the *Annuario Pontificio* for the year 1922:

Theatines
Congregation of St. Baul (Barnabites)
Somaschi
Society of Jesus (Jesuits)
Ministers of the Sick (Camillites)
Minor Clerks Regular
Clerks Regular of the Mother of God
Clerks Regular of the Pious Schools (Piarists)

19. COERCIVE POWER

I. *Of religious superiors.*

II. *Of Ordinary of the place.*

I. Of Religious Superiors

1. It is the duty of superiors to see that the religious discipline is observed. Accordingly they have the right to enforce religious observance by means of penances and

other corrective remedies according to the constitutions; but by virtue of their *domestic* power alone, their right does not extend to the use of *canonical punishments;* that is, of censures and vindictive penalties, such as excommunication, personal interdict, suspension for a definite period of time. Canonical punishments can be inflicted only by superiors who, besides the domestic power, enjoy the power of jurisdiction. (See SUPERIORS.) This power of inflicting canonical punishments can be exercised only in cases of serious violations of divine or human laws, always with due regard to the rules of equity and justice and in conformity with the requirements of the law relative to the use of such punishments. The superiors who enjoy this power are those who have authority over exempt clerical institutes; but the extent of this power in each of the three classes of superiors, general, provincial, and local, may vary in different institutes according to the respective constitutions. Moreover, their power does not extend to the cases, so called, *of the Holy Office,* as heresy and other crimes which, according to law, cause a culprit to be suspected of heresy. In such cases religious, even though exempt, are subject to the S. Congregation of the Holy Office and to the Ordinary of the place; their religious superiors have no authority to exercise any judicial act. (See Can. 501, § 2.)

II. Of Ordinary of the place

2. In regard to the coercive power of the Ordinary of the place, Canon 619 decrees that in all cases in which religious are subject to him, he may compel them to obey, even by means of punishment.

By virtue of this canon the Ordinary of the place may use his coercive power:

(*a*) Against members of diocesan institutes.

(*b*) Against members of non-exempt pontifical institutes, both (i) in matters which belong to their external govern-

ment, and (ii) in matters which refer to their internal government in so far as in this regard the law subjects them to the jurisdiction of the Ordinary of the place. (See ORDINARY OF THE PLACE, ¶ 5.)

(*c*) Against members of exempt institutes when there is question of cases in which the law makes an exception to the privilege of exemption and expressly gives to the Ordinary of the place jurisdiction over them such as he enjoys over his subjects. These cases are mentioned in the article on EXEMPTION.

20. COLLECTING

I. *Requisite permission for collecting, in case of:*

1. Regulars.
2. Pontifical and diocesan congregations.
3. Orientals.

II. *Rules for collectors.*

I. REQUISITE PERMISSION FOR COLLECTING, IN CASE OF:

1. REGULARS

1. Regulars who by their institution are called *mendicants* and are also such *in reality* may collect alms in the diocese where their religious house is located, with no other permission than that of their superiors. Outside the diocese of their residence, they must, besides, get written permission from the Ordinary of the place where they wish to collect. (Can. 621, § 1.) If a religious house of such mendicants cannot, in any way, support itself from the collections taken in the diocese where it is located, the Ordinaries, especially those of the adjoining dioceses, should not refuse, nor revoke, their permission to collect, without grave and urgent reasons. (Can. 621, § 2.)

2. This canon supposes the distinction between two

classes of *mendicant* orders. Originally the term *mendicant* applied to an order that excluded the possession of fixed revenues not only from its *individual* members, but also from its *communities*. They had to live on alms, or free donations, supplied by the faithful as their daily needs required. Of those who were instituted as mendicants, a few have retained their original institution on this point and are still mendicants both in name and in reality. Others have availed themselves of a grant to possess *in common* given by the Council of Trent to almost all mendicant orders, and these retain the *name* of mendicants, but are not such *in reality*. This canon refers to the former of these two classes. In an answer given by the Pontifical Commission on the Code, October 16, 1919, n. 10 (*Acta Ap. Sed.* XI, 478), these two classes are referred to as *strictly* and *broadly* mendicant orders, respectively.

3. The reason why the strictly mendicant orders do not need the permission of the Ordinary of the place for collecting in the diocese in which their house is located, is that this permission was implicitly granted at the time the Ordinary gave the institute the faculty to establish a house within the limits of his diocese. The permission to open a house, given to an order that by rule lives on alms, implies by its own nature permission to collect. But the permission given by the Ordinary of the place where the house is located, does not by its own nature extend to other dioceses; hence to collect in other dioceses they need explicit permission from the other Ordinaries.

4. The Holy See was asked whether the mendicant orders referred to in Canon 621, § 1, need the permission of the Ordinary to collect alms for their *church*. The answer was that in regard to this permission, sufficient provision is made in the same Canon (621, § 1.) (Pontifical Commission on the Code, Oct. 16, 1919, n. 10. *Acta Ap. Sed.* XI, 478.) It seems, therefore, that the strictly mendicant order may, in the diocese where they

reside, collect, not only for their house, but also for their church. On the other hand, in keeping with the reason why they do not need special permission for collecting in the diocese where they reside, they seem to need a special faculty, if, within the same diocese, they wish to collect for other houses that are outside the diocese.

5. Eminent authors hold that to solicit alms or donations by letter is not collecting in the sense in which the law requires a special permission from the Ordinary of the place. (*Analecta Ecclesiastica,* XVII, 73.) The usual old term "*quaestuare*" supposed a personal appeal to the charity of the faithful. The more recent documents on this matter, and the Code itself, have frequently retained the same, or similar expressions, like "*eleemosynas quaerere,*" "*mendicare,*" "*stipem quaeritare.*" In fact the decree *Singulari,* one of the instructions referred to in the Code, Canon 624, states expressly that superiors may solicit alms by letter from benefactors and honest persons until they are forbidden to do so by their lawful superiors.

2. CONGREGATIONS

6. (*a*) Religious belonging to pontifical congregations are not allowed to collect alms without special privilege from the Holy See. Having obtained this privilege, they need, moreover, the written permission of the Ordinary of the place, unless the privilege provides otherwise. (Can. 622, § 1.) The Ordinary of the place whose permission they need is not necessarily the Ordinary of the diocese in which they *reside;* it is the Ordinary of the place where they intend *to collect.*

7. Religious belonging to *non-mendicant orders* are not mentioned either in this canon or in the preceding one. May we not hold, therefore, that they do not need a special privilege from the Holy See, although they need the permission of the Ordinary of the place where they wish to collect? They do not need a special grant from the Holy

See, because it is not required of them by the law, which speaks of pontifical *congregations*. They do need the permission of the Ordinary of the place from the very nature of the act, while the favor granted by the preceding canon refers only to strictly *mendicant* orders.

8. (*b*) Religious belonging to *diocesan* congregations cannot collect alms without the written permission of the Ordinary of the place where their religious house is located. When they wish to collect outside of the diocese of their residence, besides the express permission which they must have from their Ordinary for this purpose, they need permission from the Ordinary of the place where they intend to collect. (Can. 622, § 2.)

9. (*c*) In granting permission to religious congregations, especially in places where strictly mendicant orders reside, Ordinaries must see that this permission is really necessary for supplying the needs of the house or pious work to which they devote themselves, and that these needs cannot be otherwise supplied. If their needs can be provided for by collecting within the limits of the locality, or district, or diocese of their residence, the Ordinaries should not grant more ample authorization. (Can. 622, § 3.)

3. ORIENTALS

10. When there is question of Orientals, of whatever order or dignity, Ordinaries should not grant them permission to collect in their diocese, nor should they send their subjects to collect in an Oriental diocese, without a rescript of the S. Congregation for the Eastern Church. They must see that the rescript is authentic and of recent date. (Can. 622, § 4.)

II. Rules for Collectors

11. Superiors must appoint as collectors only professed religious of mature age and character, especially when there

is question of women, and they should never choose for this office those who are still studying. (Can. 623.)

12. With regard to the method to be followed in collecting alms and the discipline to be observed by collectors, the religious of both sexes must abide by the instructions given for this purpose by the Apostolic See. (Can. 624.) The instructions referred to in Canon 624 are two: one for institutes of women, another for institutes of men. The former *Singulari* was issued by the S. Congregation of Bishops and Regulars, on March 27, 1896 (*Acta Sanctae Sedis,* XXVIII, 555). The latter, *De Eleemosynis,* was given by the S. Congregation of Religious on November 21, 1908 (*Acta Ap. Sed.* 1, 153).

The main rules contained in these instructions are the following:

(*a*) Collectors of institutes of men should not go out alone, but in twos, except in cases of necessity. Collectors of institutes of women should never go alone and should not separate, unless necessity requires it. ("*De Eleemosynis*" I, 8; II, 9; "*Singulari*" VIII.)

(*b*) When collecting outside the place of their residence, members of institutes of men will apply for hospitality to the clergy, or some pious benefactor. Members of institutes of women will try to receive hospitality from a pious female institution or charitable benefactress. ("*De Eleemosynis*" I, 9; II, 9; "*Singulari*" VIII.)

(*c*) They must not remain away from their religious house beyond a month, if they collect within the diocese of their religious residence; nor beyond two months, if they collect in some other diocese. ("*De Eleemosynis*" I, 10; "*Singulari*" VIII.)

(*d*) When they collect in the place of their residence, they must not be away from their religious house during the night. ("*De Eleemosynis*" I, 11; II, 9.)

(*e*) They must always conduct themselves so as to give edification to all by their modesty as well as by their

circumspection in their dealings with others, especially with persons of the opposite sex. (*"De Eleemosynis"* I, 12; II, 9; *"Singulari"* VIII.)

(*f*) They must have with them letters by which they may prove to the Ordinaries and pastors that they are duly appointed by their superiors to collect alms. Letters from their superiors are sufficient in the case of members of strictly mendicant orders within the diocese of their residence; in other cases, also the letters from the Ordinaries whose permission they must secure, are necessary. (*"De Eleemosynis"* I, 6; II, 4; *"Singulari"* VIII.)

13. Before closing this article, it will be well to add that the privilege or permission obtained by religious to collect does not, of itself, include the faculty to get other persons to collect for them. In order that others may go around collecting for them, special permission is made necessary by Canon 1503, which enacts: "Without prejudice to the enactments contained in Canons 621–624, private persons, whether clerics or laymen, are forbidden to collect alms for any pious or ecclesiastical institution or object, without the written permission of the Apostolic See or Ordinary, besides the permission of the Ordinary of the place where alms are solicited." The enactments contained in Canons 621–624 are those which affect religious and which have been explained in this article. The Decree *"De Eleemosynis"* quoted in the preceding paragraph had already enacted (I, 5; II, 8) that the religious who have faculty to collect must do so by themselves and not through others. (*Acta Ap. Sed.* I, 154, 156.)

21. COMMON LIFE

1. In every religious institute all members must observe *common life.* Common life, as it is understood here, requires that not only all the members of a religious community, should, as far as possible, live in the same house,

but that there should be no distinction among them in the use of temporal things, also in regard to food, dress and furniture. (Can. 594, § 1.) At the same time, due regard must be had for the sick who may require exemptions and privileges. But *their* exemptions and privileges are not exactly contrary to common life, as long as, in enjoying them, those in ill-health follow the directions of superiors and act as religious should in time of illness.

2. In order the better to protect the practice of common life, the Code ordains that whatever is acquired by religious (whether superiors or subjects) *in accordance with Canons 580, § 2 and 582, n. 1,* must be incorporated in the property of the house, or province, or institute, and that all such money and securities be deposited in the common treasury. (Can. 594, § 2.) The Code limits this enactment to the property referred to in Canons 580, § 2 and 582, n. 1, in which there is question only of the property which is acquired by religious *for the community,* and *is not their own.* (See PRIVATE PROPERTY, ¶ 11.)

3. As to the use of furniture, the Code recommends that it should be in keeping with the degree of poverty which the community professes. (Can. 594, § 3.) (See SANCTION, ¶ 15.)

22. COMMUNITY PROPERTY

Questions about property vary according as the proprietor is a religious *community* as a moral person or one of its members as a *private individual.* Questions relating to private ownership are treated in the article on PRIVATE PROPERTY. Here we consider only the legislation on property held by *communities.*

I. *Right to acquire and possess property.*
II. *Right to administer property.*
    1. Administrators and constitutions.
    2. Investments.

3. Alienation, debts and obligations.
   (*a*) General prescriptions.
   (*b*) Consent of Holy See.
   (*c*) Consent of religious superior.
   (*d*) Consent of Ordinary of the place.
   (*e*) Petition for consent.
4. Account of administration.
5. Responsibility in contracting debts and obligations.
6. Gifts.

I. Right to Acquire and Possess Property

1. Every religious institute as well as every province and house of a religious institute is capable of acquiring and possessing property and of drawing revenues from it, whether the property is real estate or securities of any kind. (Can. 531.)

2. Notwithstanding the general principle given in the preceding paragraph, there are institutes whose rules and constitutions exclude or limit the right of owning property with fixed revenues. Such institutes form an exception which is recognized by the same Canon (531).

II. Right to Administer Property

1. administrators and constitutions

3. The administration of property embraces all those acts by which the property itself is preserved or improved and its revenues are collected and properly managed, whether these revenues are employed for supplying the daily needs of the community or are reasonably applied to other purposes or whether they are safely invested. In regard to the manner of performing these and similar acts of administration, the Code decrees that whether there be question of the property of the institute or of the

province or of a house, all must be done according to the constitutions. (Can. 532, § 1.)

4. In keeping with what has been said in the preceding paragraph, administrators may spend or use at least a portion of the revenues of the community; they may lease houses, sell the surplus of land products, hire help and enter like contracts. Accordingly, Canon 532, § 2, declares that the expenditure and the juridical acts of ordinary administration may be validly attended to not only by superiors but also by those subordinate officials who are designated by the constitutions for this purpose, always, however, within the limits of their respective office. This declaration applies chiefly to bursars, but it may apply also to other officials, such as, for instance, the librarian or the prefect of the church.

2. INVESTMENTS

5. In investing money or in changing investments already made, besides observing the regulations to be found in the constitutions the following persons must obtain the consent of the Ordinary of the place (Can. 533, §§ 1, 2):

(*a*) The superioress of nuns or of a diocesan institute, whatever be the source from which the money to be invested is derived. In the case of a monastery of nuns who are subject to regulars besides the consent of the Ordinary of the place, the consent of the regular superior is also required. (Can. 533, § 1, n. 1.)

(*b*) The superioress of a pontifical religious congregation, when there is question of money which constitutes the dowry of professed religious. (Can. 533, § 1, n. 2.)

(*c*) The superior or the superioress of a house belonging to a religious congregation, when there is question of funds which have been donated or bequeathed to a house for performing acts of divine worship or for carrying out works of charity *in the same place.* (Can. 533, § 1, n. 3.) In virtue of the last mentioned clause, this enactment limits

the obligation of securing the consent of the Ordinary to cases in which the benefactor ordains that his pious wish must be fulfilled in the place where the community resides; for instance, if he provides for a certain number of beds in a hospital already established and adjoining the house of the community or if he founds a new hospital to be placed under the care of a religious institute in the diocese. But this enactment does not apply to money which is given to a house for religious or charitable purposes without any designation of the place where the pious works have to be performed, as, for instance, when a benefactor leaves to a community money to be distributed among the poor at the discretion of the superioress and he does not require that it should be applied to some particular institution or place.

(*d*) Any religious, whether he belongs to a congregation or to an order of regulars, in the case of money which has been given to a parish or mission under his charge or is handed over to members of the religious institute for the sake of the parish or mission. (Can. 533, § 1, n. 4.)

3. ALIENATION, DEBTS AND OBLIGATIONS

(*a*) *General Prescriptions*

6. For the purpose of protecting ecclesiastical property, the law embodied in Canon 1531 prescribes the following rules, to be observed by all ecclesiastical administrators: The property should not be sold at a price below the value set on it by expert appraisers. The alienation should be made a public auction or at least should be published beforehand, unless circumstances demand other action. The property should be sold to the highest bidder. Finally the price derived from the sale should be securely invested. Canon 534 decrees, first, that these enactments must be observed also by religious administrators. Moreover, when there is question of *alienating* property whether by sale,

exchange or gift, or of contracting *debts* or *obligations* by borrowing money, especially on a mortgage, the same canon requires the consent of the legitimate superior as follows. (Can 534, § 1.)

(*b*) *Consent of Holy See*

7. (i) For alienating *precious* objects, *or* (ii) property exceeding in value 30,000 francs or lire and (iii) for incurring *debts* or contracting *obligations* for a sum exceeding the same amount, it is necessary to obtain the consent of the Holy See and a contract made without this consent would be invalid. (Can. 534, § 1.)

Thirty thousand francs or lire, in gold, are equivalent to about six thousand dollars. But what does the law mean by *precious* objects? According to Canon 1497, it means objects which are of *considerable* value from the viewpoint of *art, history* or the *material* of which they are made. Such would be paintings or statues wrought by renowned artists, ancient manuscripts, chalices of solid gold inlaid with pearls, and the like. And what is to be understood by *considerable* value? Judging from former decrees of the Holy See concerning the meaning of *precious* objects, and taking into account the deterioration of monetary value, canonists, quite commonly, regard as of *considerable* value what is worth about 1,000 francs — that is, about $200. While in keeping with this view, it may safely be said that an object which is worth *less* than 1,000 francs does *not* fall under the law, it is not equally certain that an object which *exceeds* that value always *falls* under the law, at least when there is question of an object the value of which depends on the *material* of which it is made. There are not wanting authors who hold that in such cases the strict interpretation of the expression *precious objects* accepted before the Code on the strength of the former answers of the Holy See, need not necessarily be followed after the promulgation of the Code because the

law on the alienation of ecclesiastical property has undergone a considerable change.[1]

Although, according to *law,* permission of the Holy See is necessary for alienating property which exceeds in value $6,000, Bishops in this country, by virtue of faculties received from the Holy See, may give permission for alienating property to the extent of $10,000. Moreover, the Apostolic Delegate may authorize the alienation of property not exceeding in value 100,000 francs — that is, about $20,000.

(*c*) *Consent of Religious Superior*

8. In cases in which the consent of the Holy See is not necessary, if there is question of *pontifical* institutes (other than monasteries of nuns) all that the law requires is the written permission of the religious superior, with the consent of his chapter or council. (Can. 534, § 1.) The law leaves it to the constitutions to determine who is the superior authorized to give this permission and from which of the two bodies (chapter or council) the superior has to secure the required consent.

(*d*) *Consent of Ordinary of the Place*

9. Again, in cases in which the consent of the Holy See is not necessary, if there is question of monasteries of nuns or diocesan institutes, besides the permission of the

[1] Cerato, *Censurae Vigentes,* n. 65; Chelodi, *Jus Poenale,* n. 79. According to this latter author, even under the supposition that, in determining the value of *precious* objects, it is necessary to follow the standard laid down in the older decrees of the Holy See, it is not correct to establish the rule that whatever exceeds the value of 1,000 francs must *now* be looked upon as *considerable* in the sense of the law; since the time the older answers were given, monetary value has depreciated so much that to be regarded of *considerable* value an object must be worth at least 2,200 francs. A similar view of the change in monetary value is taken by Battandier, *Guide Canonique,* ed. 1908, n. 377.

religious superior together with the consent of his chapter or council, it is necessary to obtain, in writing, the consent of the Ordinary of the place and of the regular superior also, if the monastery of nuns is subject to him. (Can. 534, § 1.) (See SANCTION, ¶ 8.)

(*e*) *Petition for Consent*

10. In applying for the consent required by law, if the institute, province or house in whose interest the application is made, has not yet fully satisfied preceding debts or obligations, it is necessary to make explicit mention of the amount which is still due, otherwise the permission will be null and void. (Can. 534, § 2.)

4. ACCOUNT OF ADMINISTRATION

11. (*a*) In monasteries of nuns, even though exempt, an account of the administration must be given by the superioress to the Ordinary of the place every year or even oftener if the constitutions so prescribe. In the case of nuns subject to regulars, this account must be given also to the regular superior. In calling for this account, it is not permitted to ask for any tax or contribution. (Can. 535, § 1, n. 1.) If the Ordinary does not approve of the manner in which the administration is conducted, he may apply suitable remedies even by removing the bursar and the other administrators; but in the case of a monastery subject to regulars, the Ordinary must first warn the regular superior that he may provide, and if the latter fails to do so the Ordinary himself shall provide. (Can. 535, § 1, n. 2.) This account must embrace all the property held by the monastery, as no limitation is made by law.

This account must likewise be given by the superiors of *diocesan* congregations. (Can. 535, § 3, n. 1.) The law does not distinguish between men and women, nor does it limit the obligation to certain sources of revenue.

12. (*b*) An account of the administration of the property in which the *dowries* have been invested must be given not only by monasteries of nuns and by diocesan congregations but also by *pontifical* congregations. This account must be given at the time of the episcopal visitation, or even oftener if the Ordinary deems it necessary. (Can. 535, § 2.)

13. (*c*) Moreover, monasteries of nuns and houses of religious congregations, whether *diocesan* or *pontifical,* must give an account of the administration of funds supplied by the faithful for promoting divine worship or charitable works to be performed in the same place. (See above, ¶ 5.) (Can. 535, § 3, n. 2.)

14. (*d*) Finally every religious, even though he belongs to an order of regulars, must give an account of the money given to the *parish* or *mission* under his charge or handed over to the religious for the sake of *one* or the *other.* (Can. 535, § 3, n. 2.)

5. RESPONSIBILITY IN CONTRACTING DEBTS AND OBLIGATIONS

15. In regard to the responsibility of religious in this matter, three different cases must be considered. The contract may have been entered into: (*a*) by religious as forming a *corporate entity* (whether this entity or moral body was the institute or a province or a house) or (*b*) by a religious as an *individual,* but with permission of his superior, or (*c*) by a religious as an *individual,* without his superior's permission.

In the first case, the corporate entity that contracted the debt or obligation is responsible, even though the transaction was made with the superior's permission. (Can. 536, § 1.)

In the second case, it depends on whether the religious is a *regular* or a *religious of simple vows.* If he is a regular, the responsibility rests with the corporate entity whose

superior gave the permission. If he is a religious of simple vows, the responsibility rests with the religious himself, unless he acted in the interest of the community with the superior's permission. (Can. 536, § 2.)

In the third case, the religious who made the contract without any permission from his superior is the responsible person, not the corporate entity. (Can. 536, § 3.)

However, in any case, if a person derived some material benefit from a contract not rightly made, action may always be brought against him, whether he is a private individual or a corporate entity. (Can. 536, § 4.)

16. Finally the law warns superiors that they should not grant permission to contract debts unless they are certain that the interest due on the loan can be paid out of the ordinary income of the community and that the principal itself can be extinguished at a not too remote date by means of a sinking fund. (Can. 536, § 5.) The term *amortizatio* used in the Latin text of the canon means precisely the gradual diminution of a debt by means of a sinking fund. This fund need not actually be owned by the community when the debt is incurred, provided that from the ordinary income there will always be a surplus sufficient for gradually liquidating the debt.

6. GIFTS

17. In conformity with Canon 537, it is not permitted to give as presents what belongs to a house or province or institute, unless these presents are made by way of almsgiving or for some other just reason, with the permission of superiors and in accordance with the constitutions. Besides the relief of the poor, a just reason for making moderate donations would be, for instance, the manifestation of gratitude to benefactors. Should the constitutions or custom define the amount for which the various classes of superiors may grant this permission, the latter, of course, must act in conformity with such prescriptions.

23. CONFERENCES

1. In clerical institutes, at least in every formal house (*domus formata*), not less than once a month a *conference* should be held for the solution of cases of moral theology and sacred liturgy. In addition, if the superior deems it advisable, a dissertation may be read on sacred dogma and cognate branches. All professed clerics, residing in the house, whether they are studying theology or have finished their course, must be present, unless the constitutions provide otherwise. (Can. 591.)

2. Moreover, those religious who are engaged in the care of souls, such as pastors and assistants, must be present at the diocesan conferences, just as the members of the secular clergy. The same obligation rests on religious who have received from the Ordinary of the place the faculty to hear confessions, but only if no conferences are held in the religious house to which they belong. (Can. 131, § 3.) (See SANCTION, ¶ 9.)

24. CONFESSORS

I. *Confessors in clerical institutes.*
   1. Confessors appointed for community.
   2. Other confessors.

II. *Confessors in institutes of women.*
   1. Various classes of confessors.
      (*a*) Ordinary and special confessors.
      (*b*) Extraordinary confessors.
      (*c*) Other confessors.
         i. At any time.
         ii. In time of sickness.
   2. Qualities.
   3. Appointment.
   4. Term of office.
   5. Removal.

III. *Confessors in lay institutes of men.*
IV. *Confessors for novices.*
1. In institutes of women.
2. In institutes of men.

I. Confessors in Clerical Institutes

1. confessors appointed for community

1. More than one confessor must be appointed for every house. The law does not determine in particular how many confessors must be in each house but only requires that their number be proportionate to the number of members in the community. (Can. 518, § 1.)

2. In the case of exempt institutes these confessors must be appointed with power to absolve from cases reserved in the institute. (Can. 518, § 1.) It matters not whether the cases be reserved to the local or to the higher superior, whether they be sins reserved *without a censure* or sins reserved *because of a censure attached to them.*

3. Superiors who have faculties may hear the confessions of their subjects if the latter apply to them entirely of their own free will, but they should not hear subjects' confessions *habitually* without some grave reason. (Can. 518, § 2.) A grave reason may be the difficulty which a religious might experience in opening his conscience to other confessors, or some special spiritual advantage which he expects to derive from going to confession to his superior. In any case, superiors must never endeavor, by using force, fear, importunate recommendations or any other means, directly or through others, to induce their subjects to confess to them. (Can. 518, § 3.)

2. other confessors

4. Notwithstanding the appointment of the ordinary confessors already mentioned, any religious, even though exempt, may for the peace of his conscience, confess to any

priest who has the ordinary faculties from the Ordinary of the place and be absolved by him, even from sins and censures reserved in the institute. A confession made under such circumstances is valid and licit, notwithstanding any contrary previous prescription enacted by the Holy See in favor of the institute. (Can. 519.)

5. This concession is made by law *without prejudice to the constitutions* which may command or advise going to the appointed confessors of the house. This means that the constitutions must be observed whenever *peace of conscience* does not require the use of this faculty. If, therefore, one should confess to a priest who is not an appointed confessor of the house, without having sufficient reason for doing so; that is, without being prompted by a motive connected in some way with the peace of his conscience, he would violate the constitutions. The absolution, however, would be valid, provided the confession was rightly made, because, judging from the subject matter of the law, it does not seem to be the mind of the legislator that this condition — namely, to go to another confessor *for the peace of one's conscience* should be necessary for validity of confession.

6. In accordance with the enactment contained in Canon 519, as explained in the preceding paragraphs, the law grants to religious all possible freedom in this matter for the greater tranquillity of their conscience; but, in cases in which they cannot make use of this faculty without going out of the house, the law does not authorize them to leave without permission if, in keeping with the constitutions and customs of their institute, they must ask permission to go out. As to superiors, when such permission is asked and they know the reason for the request, they should readily grant it except in cases in which they conscientiously judge that there is some true, weighty reason for refusal. Such a reason may arise from the general discipline of the community; but, even for such a reason

the spiritual welfare of the individual should not lightly be set aside.

II. Confessors in Institutes of Women

1. various classes of confessors

We can distinguish three classes of confessors: (*a*) *ordinary* and *special* confessors to whom *all* the members or *certain* members of the community may go *habitually;* (*b*) *extraordinary* confessors to whom nuns and sisters may go *at intervals* or *in particular cases* and (*c*) confessors, other than those mentioned under (*a*) and (*b*) available to them under certain conditions. (See below, ¶¶ 13, ff.)

(*a*) *Ordinary and Special Confessors*

7. Every house of religious women must be supplied with an *ordinary* confessor, and more than one should not be appointed for the same house unless the large number of members in the community or some other just reason requires more than one. (Can. 520, § 1.) In appointing several confessors for the same community it may be desirable that every confessor should have faculties for the whole house, although it is not beyond the power of the Ordinary of the place to limit the faculties of each confessor to a corresponding group of religious.

8. If a religious, for the tranquillity of her soul and for her greater progress in the spiritual life, asks for a special confessor or spiritual director other than the ordinary confessor who is appointed for the community, the Ordinary of the place should readily grant her request. Once the appointment of this special confessor or spiritual director has been made, the sister or nun for whom he has been appointed may confess to him habitually, and there is no need of applying repeatedly to the Ordinary. The Ordinary, however, has to see that no abuses arise from this concession. Should such abuses creep in, let the same

Ordinary carefully and prudently eliminate them, without prejudice to liberty of conscience. (Can. 520, § 2.) In keeping with this last clause, this concession should not be taken away immediately, if abuses arise. Every effort should first be made to remove them in some other manner.

(*b*) *Extraordinary Confessors*

9. The law requires that an *extraordinary* confessor be appointed for every community. When this extraordinary goes to the house, all the religious must present themselves to him, at least to receive his blessing. He must go to the house for which he is appointed at least four times a year. (Can. 521, § 1.)

10. Besides this extraordinary confessor the Ordinary of the place must appoint for each house some other priests to whom a sister or nun may have recourse in particular cases, without the need of applying to the Ordinary each time. (Can. 521, § 2.) In conformity with this enactment every community must be supplied with a certain number of such extraordinary confessors, but each of these may fill this office for several communities.

11. To safeguard the observance of the law in this matter, Canon 521, § 3, adds the following provision: If a religious asks for one of the above mentioned confessors, no superior is allowed, either personally or through others, either directly or indirectly, to inquire about the reason of her request, or to oppose that request, whether by word or deed, or to show in any way that she is displeased with it. Accordingly superiors must readily comply with such a request and must abstain from whatever may have even the semblance of interfering with the perfect freedom which the law allows religious in this matter.

12. The three preceding paragraphs correspond to the three sections contained in Canon 521; thus, ¶¶ 9 and 10 correspond to §§ 1 and 2 in which there is question of two classes of extraordinary confessors, and ¶ 11 corre-

sponds to § 3, which enjoins on superiors the obligation of not making any opposition to the request of religious in this matter. It is clear from the setting of the whole canon and the wording of § 3, that the enactment embodied in this last section (3) has reference to both of the preceding sections (1 and 2) and not only to § 2. Accordingly a religious is free to ask not only for one of the extraordinary confessors who are appointed expressly for particular cases (§ 2) but also for the extraordinary confessor who is appointed for the community. (§ 1.) (Vermeersch, *Periodica de Re Canonica et Morali,* t. ix, p. 12.)

(*c*) *Other Confessors*

In the case of any of the confessors who have been mentioned in the preceding paragraph, whether they be *ordinary* (¶¶ 7, 8) or *extraordinary* (¶¶ 9, 12), it is always necessary that they have received special approbation for hearing the confessions of *religious women,* but in case of the confessors of whom there is question in this and the following paragraphs, it is sufficient that they have been approved to hear the confessions of *women* even though they have no special faculties for *religious* women. This faculty granted to sisters and nuns to confess to any priest appointed for *women* is embodied in Canons 522 and 523. The faculty contained in Canon 523 is restricted to the time of serious illness; the faculty granted in Canon 522 is not restricted to any particular time. Accordingly we treat of these two faculties under different headings.

(i) At any Time

13. By virtue of Canon 522, "if notwithstanding the prescriptions contained in Canons 520, 521, a religious, for the tranquillity of her conscience, should go to a confessor who has been approved for women by the Ordinary of the place, her confession, made in any church, or in any oratory, even though only semi-public, is valid and licit."

The enactments contained in Canons 520 and 521 and referred to in this canon are those which concern the appointment of *ordinary* and *extraordinary* confessors, and have been explained in the preceding paragraphs. A word may be added about the clause: "for the tranquillity of her conscience" and about the *place* where the confession may be made.

14. In regard to the clause: "for the tranquillity of her conscience," we recall what has been said above in connection with the confessions of religious *men*. (See above, ¶ 4.) The Church does not expect religious to avail themselves of this faculty except when, in their judgment, its use is, in some way, *profitable to their conscience* especially by relieving anxieties of any kind. On the other hand, it may be safely said that the Church does not make validity of confession depend on this clause; consequently, even though this faculty be used without sufficient reason, the confession, provided it be rightly made, is valid.

15. In regard to the *place* where the confession has to be made, the canon mentions *churches* and *oratories* whether *public* or *semi-public*. (See ORATORIES, ¶¶ 1–5.) It matters not *where* these sacred places are located. Whether they are located *outside* the establishment in which a religious resides or *within* its limits, the faculty may be used, provided in one of these sacred places she goes to confession to a priest approved for *women*.

16. But while it is certain that this faculty may be used in any *church* or *oratory*, whether *public* or *semi-public*, whether located *outside* or *within* the limits of the religious house, the question arises: Is this same faculty of going to confession to any priest who is approved for *women restricted* to the sacred places just mentioned or may it be used in *other places* also? Before answering this question, we must recall the general law of the Church, concerning the place where the confessions of *women* may be heard.

17. According to Canon 909 the confessional for hearing

the confessions of women must be placed in an open and conspicuous place, generally in a church or in a public oratory, or in a semi-public oratory destined for women. This confessional must be provided with an immovable grate, finely perforated, set up between the penitent and the confessor. According, then, to this canon, the place set apart for hearing the confessions of women should, preferably, be in a church or oratory, but it may also be outside of them, provided the conditions required by the canon concerning the location of the confessional and the use of the grate are fulfilled. Accordingly, in many institutions there are one or more such rooms destined for hearing the confessions of the sisters and other inmates.

18. Having recalled the general law in this matter, we may answer the question asked above — whether, namely, the faculty granted to sisters and nuns in Canon 522 may be used in a place other than a church or oratory. The answer is affirmative, at least when there is question of confessions that are heard in a place *legitimately destined for hearing the confessions of women,* in keeping with the general law just mentioned. This doctrine was probable before the promulgation of the Code, and after the Code was promulgated, it was made certain by an authoritative answer given by the Pontifical Commission on the Code, on November 20, 1920. (*Acta Apostolicae Sedis,* XII, 575.) This Commission declared that Canon 522 must be understood as follows: The confessions which, for the tranquillity of their conscience, religious women make to a priest approved by the Ordinary of the place for hear ing the confessions of women, are licit and valid, provided they are made in a church or in an oratory, whether public or semi-public, *or in a place legitimately destined for hearing the confessions of women.*

19. But the question still remains whether *other places* besides those just mentioned are altogether excluded from the privilege; for instance, in cases like the following:

A priest having only faculties for the confessions of women visits a sister, his former penitent, and finds her in the infirmary. She is not gravely sick, but she is in such a condition that she cannot easily leave the infirmary. She wants to go to confession to her former confessor; could this priest hear her confession licitly and validly? Again, a sister who acts as portress is very anxious to go to confession but on account of the hour and local circumstances she cannot easily ask for and obtain one of the extraordinary confessors. While she is in this perplexity, a priest having only faculties for hearing women comes to see another sister. The portress would like to avail herself of the opportunity given by the presence of this priest, but she feels a great repugnance toward going to the ordinary place set apart for the confessions of sisters, because, owing to its location and her present occupation, she would have to make her case too public. Could this visiting priest hear her confession validly and licitly at a grate placed in the parlor? Before the answer of the Pontifical Commission given above it was probable that in these and similar cases the confession would be *valid and licit. Valid,* because the condition laid down in Canon 522 concerning the *place* where the confession must be heard does not affect the validity of the confession; *licit,* because in such cases there seems to be a sufficient reason for choosing a place other than one of those where the confessions of sisters are heard usually, provided the necessary precautions to avoid dangers are taken. This same doctrine remains probable now, after the answer given by the Pontifical Commission, because, from its express wording, it is clear enough that the Pontifical Commission did not wish to settle this question authoritatively.

20. The concession of this faculty contained in Canon 522 is given: *revocato quolibet contrario privilegio;* that is, Canon 522 revokes any privilege which may have been granted contrary to this concession.

21. Finally, concerning the use of this faculty, the law declares that (*a*) the superior cannot forbid it or even inquire about it whether directly or indirectly, and that (*b*) the religious who makes use of this faculty is under no obligation to inform the superior on the matter. According to this latter clause, a religious is not bound to tell her superior that she has gone, or that she intends to go to confession to a priest who has no special faculties for hearing religious women, but the law does not free her from the obligation of asking her superior for *permission to go out of the house,* if she intends to make use of this faculty outside the cloister. As to the superior, if she knows for what reason a sister intends to go out and the circumstances are such that her request cannot be satisfied by calling the desired confessor to the house, she may not refuse permission unless she has a true, weighty reason for so doing, as has been explained above in regard to the confessions of religious *men.* (¶ 6.) Finally, it is scarcely necessary to remark that the faculty to go to any confessor approved for women does not carry with it a relaxation of the laws and rules on the enclosure in those institutes, especially of nuns, in which the enclosure is more strictly observed. When there is question of institutes whose members are forbidden to go out except on certain extraordinary occasions, specified in the law or in the constitutions, religious cannot lawfully avail themselves of this faculty outside their house except on those extraordinary occasions.

(ii) In Time of Sickness

22. By virtue of Canon 523, the other case in which sisters and nuns may confess to any priest who has faculties for women is in time of *serious* illness. In order to avail herself of this faculty, a religious need not be so ill as to be in danger of death.

Besides allowing a religious who is seriously ill to call any priest with faculties for hearing women, the same

canon declares expressly that *as long as* she is seriously ill, she may confess to him as often as she wishes. At times it may be difficult to decide when a disease ceases to be serious, and it seems to be in keeping with the scope of the law to interpret this concession as including also the period of convalescence.

The canon closes with a declaration that a superioress cannot either directly or indirectly prevent a religious from making use of this faculty granted to her by the law. (See SANCTION, ¶ 22.)

23. Several persons have called our attention to the fact that this faculty contained in Canon 523 is so worded as to make it appear as if the confessor to whom religious women may go when they are seriously ill need not be approved *by the Ordinary of the place.* They hold that the confessor must indeed have been approved by *some* Ordinary, but that this Ordinary is not, *necessarily,* the Ordinary of the diocese where *the confessions are heard.* They argue from the fact that the clause "by the Ordinary of the place" has been omitted in Canon 523, but not in Canon 522, which immediately precedes.

Others, however, take a different view of this question. They urge that according to the present discipline the jurisdiction which is granted to a priest when he is approved by a Bishop is always limited to the territory over which the Bishop himself has jurisdiction, unless the law expressly makes an exception. Accordingly, the term "approved to hear confessions" has a definite meaning, *implying the aforesaid limitation;* namely, approved by the *Ordinary of the place,* a meaning from which one cannot depart unless the context necessarily requires such a departure, and this does not seem to be the case in the present instance. This argument has its weight, but the opinion mentioned in the preceding paragraph does not seem to be devoid of all probability.

24. Finally, besides these two cases in which religious

women may go to confession to any priest who has been approved for women, it will not be out of place to make mention of the other right which, in accordance with Canon 882, they have in common with all the faithful. By virtue of this canon, all the faithful, when they are in danger of death, may be absolved by any priest even though the priest has not been approved to hear confessions. We say that this right is enjoyed also by religious women because Canon 876, which requires that priests should have *special* faculties to hear the confessions of nuns and sisters, mentions *three exceptions:* the two contained in Canons 522 and 523, which have been explained in the preceding paragraphs, and the present one contained in Canon 882.

2. QUALITIES

25. The confessors who are appointed for religious women, whether as ordinary or as extraordinary, may be taken from among the secular clergy or from among religious, provided they are of blameless life and prudent. Moreover, they must be forty years of age unless, in the judgment of the Ordinary, some just reason requires otherwise; for instance, when there are not enough priests of the required age available for this office. Finally, they must be priests to whom the same religious are not subject *in foro externo;* that is, outside the confessional, in matters not pertaining to the domain of conscience. Accordingly the confessor of a community of teachers or of sisters who take care of the sick, should not be one who at the same time has authority over the same sisters as superior of their school or of their hospital. (Can. 524, § 1.)

26. (*a*) One who has acted as *ordinary* confessor of a community cannot be appointed *extraordinary* confessor for the same community unless a full year has elapsed since his term as ordinary has expired. Moreover, before that time he cannot be reappointed as *ordinary* for the same

community except in the cases mentioned in Canon 526. (See below, ¶¶ 30, 31.)

(*b*) One who has acted as *extraordinary* confessor may be immediately appointed as *ordinary* confessor. (Can. 524, § 2.)

27. All confessors of religious women are forbidden to meddle in any way with the government of the community whether it be a question of the internal affairs of the community or of its relations to externs. (Can. 524, § 3.)

3. APPOINTMENT

28. All confessors receive their *jurisdiction* from the Ordinary of the place. (Cans. 874, § 1; 876.) When there is question of the confessors to whom religious women may confess for the tranquillity of their conscience and in case of serious illness, it is clear that there is no need of any further special appointment. (Cans. 522, 523; see above ¶¶ 13, ff.) When there is question of the four classes of confessors mentioned in Canons 520, 521 (see above, ¶¶ 7–12) they are all *chosen* by the Ordinary of the place except in the case of communities that are subject to regulars. When there is question of an *ordinary* or of an *extraordinary* confessor of one of these communities, the regular superior has the right to *present* the names to the Ordinary of the place to whom it belongs to *approve* them unless the regular superior is negligent in the exercise of his right, in which case the Ordinary may choose them without his intervention. (Can. 525.)

4. TERM OF OFFICE

29. In regard to *extraordinary* confessors, the law does not define their term of office. They may be appointed for an indefinite period or for a certain definite time; in the latter case they may be reappointed at the end of the term.

30. In regard to the *ordinary* confessor, he cannot exercise his office for more than three years. When the three years have elapsed, he cannot be reappointed immediately for the same community (see above, ¶ 26) except in two cases. (Can. 526.)

31. These two cases are:

(*a*) When the scarcity of priests suitable for this office does not allow the Bishop to provide otherwise.

(*b*) When the majority of the religious who belong to the community agree by secret ballot to have the same confessor confirmed in his office. The right to vote in this case is enjoyed by all the professed belonging to the house, even by those who have no vote in other affairs, whether they have perpetual or temporary vows, whether they are choir sisters or lay sisters. If the vote is not unanimous, special provision must be made for those who disagree, if this be their wish. (Can. 526.) This can be done through the appointment of another ordinary confessor besides the one confirmed.

32. In virtue of Canon 526 Bishops may confirm the ordinary confessor only for a second and for a third term; but, in virtue of special faculties which they receive from the Holy See, they may confirm him for a fourth and for a fifth term, on the same conditions that are required in the case of the second exception admitted by the law (see ¶ 31, b); that is, the reappointment must be agreed upon by the majority of *all* the religious who belong to the community, including those who have no vote in other affairs; and for the religious who disagree special provision must be made if they so desire.

5. REMOVAL

33. The Ordinary of the place may, for any grave cause, remove from office any of the *ordinary* or *extraordinary* confessors of religious women, even though the monastery be subject to regulars and the confessor be, himself, a regu-

lar. When, however, there is question of a monastery that is subject to regulars, he must inform the regular superior of the removal. In no case is he bound to manifest the reasons of the removal to anyone, except to the Apostolic See, if the latter inquires about them. (Can. 527.) The Apostolic See will probably inquire about the reasons for the removal, if any of the interested parties has had recourse to it against the decree of removal. This complaint to the Apostolic See is, of course, permissible, but it has *no suspensive* effect; that is, until the Apostolic See has decided otherwise, it has not the effect of preventing the Ordinary of the place from enforcing his decree of removal. (Cans. 527, 880.)

III. Confessors in Lay Institutes of Men

34. Canon 528 enacts that for lay institutes of *men* also an *ordinary* and an *extraordinary* confessor should be appointed, but when the extraordinary confessor goes to the house the *professed* members of the community are not obliged to present themselves to him. (See below, ¶ 42.) These confessors receive jurisdiction from the Ordinary of the place but in the case of an exempt institute they are proposed by the religious superior. (Cans. 874, § 1; 875, § 2.)

35. Should a religious ask for a *special* confessor (to whom he may confess *habitually*) the superior shall grant his request without making any inquiry about the reason of his petition or showing any displeasure at it. (Can. 528.) According to the law it is the superior who has the power and the duty to grant this special confessor, but this confessor must, of course, be chosen from among those who have the usual faculties for hearing confessions from the Ordinary of the place.

36. It is scarcely necessary to add that, notwithstanding the appointments mentioned in the preceding paragraphs, members of lay institutes of men enjoy the privilege of

confessing, for the peace of their conscience, to any priest who has the ordinary faculties of the diocese, as was explained above in the case of members of clerical institutes. (See above, ¶ 4.)

IV. Confessors for Novices

1. in institutes of women

37. The law regarding confessors of novices is the same as that which has been explained regarding the confessors of the professed in the same institutes. (Can. 566, § 1.) Hence also the novices, like the professed, enjoy the freedom to go to any confessor approved for women, for the tranquillity of their conscience and in time of a serious illness.

2. in institutes of men

38. (*a*) Every novitiate must be provided with one or more *ordinary* confessors, according to the number of novices. (Can. 566, § 2, n. 1.) If the number of novices is small, there is no obligation of appointing several confessors, as there is in the case of a community of professed in a clerical institute. (See above, ¶ 1.)

39. (*b*) In clerical institutes the ordinary confessors must reside in the house of the novitiate; in lay institutes they may live outside, but in this case they must often go to the house of the novitiate to hear the confessions of the novices. (Can. 566, § 2, n. 2.)

40. (*c*) The master of novices as well as his assistant cannot act as ordinary confessors of the novitiate. In fact, they are both forbidden to hear the confessions of novices unless the novices themselves, of their own choice, go to them for some grave and urgent reason, in particular cases. (Can. 566, § 2, n. 1; and Can. 891.) This last clause " in particular cases " is not sufficiently clear and is open to different interpretations. It may mean that under the circumstances mentioned in Canon 891, they can hear

the confession of *this* or *that* novice *in particular*, even *habitually*. Or it may mean that under those circumstances they can hear the confession of this or that novice only *on some particular occasions*, and *not habitually*. According to the latter interpretation they cannot act as ordinary confessors for *any* novice; according to the former interpretation they can act as ordinary confessors, provided there is not question of the *community* at large, but only of *this* or *that* novice, under the circumstances laid down in Canon 891. The latter interpretation seems to be more in keeping with the context of the law; but the former is also probable and may be followed until the Holy See gives an authentic declaration in the sense of the latter. (Vermeersch, *Periodica de Re Canonica et Morali*, t. ix, p. 11.)

41. (*d*) Besides the *ordinary* confessors, some other confessors must be designated to whom the novices may go freely in particular cases, and the master of novices is forbidden to give any sign of displeasure. (Can. 566, § 2, n. 3.)

42. (*e*) Moreover, at least four times a year, the novices must be supplied with an extraordinary confessor, to whom they must all present themselves, at least to receive his blessing. (Can. 566, § 2, n. 4.) This extraordinary confessor must be granted to them, even in houses which are provided with more than one ordinary confessor for novices, because the law makes no distinction.

43. (*f*) Finally, for the peace of their conscience novices may go to any confessor who has been approved by the Ordinary of the place, as has been explained above in regard to the members of clerical institutes and of lay institutes of men. (Cans. 566, § 2; 519. See above, ¶¶ 4, 36.)

25. CONFRATERNITIES AND PIOUS UNIONS

I. *Definition.*
II. *Establishment and approbation.*
III. *Supervision.*
IV. *Appointment of chaplain and moderator.*
V. *Women.*
VI. *Place of establishment.*
VII. *Spiritual privileges.*
VIII. *Dress and insignia.*
IX. *Intervention of Ordinary of the place.*
X. *Transfer.*
XI. *Suppression.*

I. Definition

1. A *pious union* is an association established for the purpose of exercising works of piety or charity. If a pious union is constituted as an organic body, with a president, assistants and other like officials, it is called a *sodality,* provided this form of organization is really constitutional and so essential that the association cannot be established without it. If this form of organization is not essential, it remains simply a pious union even though it is established with a president and other officials. This often happens in the case of the pious associations of the Blessed Virgin Mary. By virtue of their constitutions these associations are only pious unions and are not entitled to the technical name of sodalities, but in point of fact they imitate the organization of sodalities and ordinarily they are given this name by the faithful.

A sodality which has for its object the promotion of public worship is called a confraternity. (Can. 707.)

Although religious cannot be members of *third orders* (see THIRD ORDERS, ¶ 7), they are not forbidden to join confraternities and pious unions, provided that, in the judgment of superiors, the laws of these associations do not interfere with the observance of their own rules and constitutions. (Can. 693, § 4.)

II. ESTABLISHMENT AND APPROBATION

2. No association enjoys the recognition of the Church unless it is canonically *established* or *approved* by the competent ecclesiastical authority. A simple *approval* makes an association capable of enjoying spiritual favors, especially indulgences; the *canonical establishment* raises it to the rank of ecclesiastical *moral* persons, with the corresponding rights and obligations. (Cans. 708; 687; 100.) All *confraternities* must be *canonically established.* (Can. 708.)

3. Apart from cases of an apostolic privilege, this approval and canonical establishment are acts that belong to the Ordinary of the place. Accordingly, religious, even though exempt, cannot establish any of the associations described above unless they have received a privilege from the Holy See, and even in this case they need the consent of the Ordinary of the place for the valid exercise of their privilege. When, however, the Ordinary of the place gives to a religious institute permission to open a new house, this permission implies the consent to establish in the same house, or adjoining church, an association which has not the character of a confraternity or a sodality, provided this pious union is one that belongs to the same religious institute, as the association of the Seven Dolors in relation to the Servites or the association of the *Bona Mors* in relation to the Society of Jesus. (Can. 686.)

4. Unless the statutes of an association have been confirmed by the Holy See, they are subject to the modification and correction of the Ordinary of the place, even in

the case of those that are established in a church of exempt religious. (Can. 689.)

III. Supervision

5. Associations are likewise subject to the *jurisdiction, vigilance* and *visitation* of the Ordinary of the place, but those which have been established, by apostolic privilege, in churches of exempt religious, are not subject to his visitation in matters which appertain to the internal discipline and to the spiritual direction of the association. (Can. 690.)

In regard, however, to the administration of property, the collecting of alms, and the disposition of these, all are subject to the Ordinary of the place. (Can. 691.)

IV. Appointment of Chaplain and Moderator

6. The appointment of the chaplain and the moderator belongs to the Ordinary of the place, provided the association is not one established by religious in their own church. In the case of an association established by religious in their own church, the appointment belongs to the religious superior; but if he wishes to appoint priests from the secular clergy, the appointment must be ratified by the Ordinary of the place. The same priest may act as chaplain and moderator. The power to remove, for a just cause, the chaplain or moderator belongs to the person who had the power to appoint him. (Can. 698.)

V. Women

7. Women can be enrolled in a confraternity, only to gain the indulgences and spiritual favors attached to it, with no right to take part in public worship in the manner allowed male members. (Can. 709, § 2.)

VI. Place of Establishment

8. Confraternities, sodalities and pious unions cannot be established except in a church or in an oratory, public, or at least semi-public. (Can. 712, § 1.) In churches and oratories of nuns and sisters the Ordinary of the place may allow only the establishment of associations of women, or of associations of men and women, whose sole object is prayer and whose privileges consist only in sharing spiritual favors and indulgences. (Can. 712, § 3.)

VII. Spiritual Privileges

9. Religious may, and must, communicate to confraternities, sodalities and pious unions established by them, the spiritual favors which in the faculties received from the Apostolic See are expressly mentioned as being communicable. Mention of these favors must be made by religious at the time when the association is established, without prejudice, however, to the enactments contained in Canon 919. According to this canon, indulgences newly granted cannot be published without the knowledge of the Ordinary of the place if they have not been promulgated officially in Rome. Moreover, books, pamphlets and papers containing concessions of indulgences cannot be published without the approval of the competent ecclesiastical authority according to the terms of Canon 1388. (Can. 713, § 1.)

VIII. Dress and Insignia

10. Without special permission from the Ordinary of the place, confraternities established by religious cannot adopt a special dress or insignia, to be worn at processions and other sacred functions. Nor can any confraternity, without his permission, dismiss or alter the dress or insignia which belong to it. (Cans. 713, § 2; 714.)

IX. Intervention of Ordinary of the Place

11. The Ordinary of the place has the right (*a*) to be present, either personally, or through someone delegated by him, at the meetings of the confraternities, even though they be held in churches of regulars; (*b*) to confirm their officials if worthy and suitable, and to reject or remove them if unworthy or unfit; (*c*) to correct and approve their statutes and rules unless they have been approved by the Apostolic See. (Can. 715, § 1.)

In the case of extraordinary meetings, the confraternity must give timely notice to the Ordinary of the place or to his delegate, otherwise the Ordinary has the right to forbid the meeting, or to annul their resolutions entirely. (Can. 715, § 2.)

X. Transfer

12. An association may be transferred from one place (church or chapel) to another with the consent of the Ordinary of the place, unless the transfer is forbidden by enactments approved by the Apostolic See; moreover in the case of associations reserved to a religious institute, the consent of the superior is required. (Can. 719.)

XI. Suppression

13. With the exception of the associations established by the Apostolic See, all the others, even those established by religious with the consent of the local Ordinary by apostolic indult, may, for grave reasons, be suppressed by the Ordinary of the place, without prejudice, however, to the right of recourse to the Apostolic See. (Can. 699.)

26. CONGREGATION, RELIGIOUS

A *religious congregation,* also simply called *congregation,* is an institute in which only simple vows, whether temporary or perpetual, are taken. (Can. 488, n. 2.) If the

institute has members with solemn vows, it is called an order. (See INSTITUTE, RELIGIOUS; VOWS, ¶ 3; PROFESSION, RELIGIOUS, ¶ 27.)

27. CONSECRATIONS AND BLESSINGS

1. *Blessings* are rites by which the Church (*a*) either *dedicates* places and objects to some sacred use, or (*b*) simply *invokes* upon them God's special favor for the benefit of the faithful who will use them. Accordingly, blessings are of two kinds: *constitutivae* and *invocativae;* we may call the former, *dedicatory,* and the latter, *impetratory.* The blessing of a church or of the vestments to be used by the priest at Mass belongs to the former class; the blessing, for instance, of houses, bread and other eatables belongs to the latter class.

Each blessing has its own formula of prayer to be found in liturgical books, such as the Roman Pontifical and the Roman Ritual. Ordinarily it is accompanied by the sprinkling of *holy water.* The term *consecration* applies to the more solemn blessings in which *holy oils* are used.

2. In this article we deal only with those consecrations and blessings which are imparted to places and objects destined for public worship, as churches and public oratories, church bells, cemeteries, altars and the vestments and utensils necessary for Holy Mass. Of all these, some are *blessed,* some must be consecrated, some are first blessed and consecrated afterwards. The point taken into consideration in this article concerns the persons who have the faculty and right to perform these various consecrations and blessings.

3. The consecration of churches and of public oratories, whether of seculars, or of religious, even though exempt, belongs to the *Ordinary of the place,* but not to the *vicar general* except by special commission. If the Ordinary of the place has no episcopal character, as may happen in the case of an administrator, he may give permission

to perform the consecration to any Bishop of the same rite. (Can. 1155.) Privileges conflicting with this right of the Ordinaries of the place cannot be used without his consent. (Can. 1157.)

4. The consecration of church bells and of immovable altars belongs, likewise, to the Ordinary of the place. This holds also in the case of exempt religious. (Cans. 1169, § 5, 1199, § 2.)

5. As to consecration of portable altars as well as of chalices and patens, seculars and religious may have them consecrated by any Bishop. (Can. 1199, § 2.)

6. The right to *bless* churches and public oratories, corner-stones of the same, church bells and cemeteries rests (*a*) with one of the higher superiors or (*b*) with the local Ordinary, according as the place (church, public oratory, etc.) belongs (*a*) to exempt clerical religious or (*b*) to other religious or to seculars; and either of these prelates who enjoy this right may give to another priest the faculty to perform these blessings. (Cans. 1156, 1163, 1169, § 5, 1205, § 1.)

7. *Clerical* religious superiors, or priests of the same institute, delegated by them, may bless (*a*) sacred vestments and (*b*) sacred utensils (other than chalices and patens) for the use of their churches and oratories and for the use of the churches of the *nuns* who are subject to their authority. (Can. 1304, n. 5.) *Other* religious superiors must have recourse to one of the ecclesiastics who have the power and right to bless them; these are: (*a*) Cardinals, (*b*) Bishops, (*c*) local Ordinaries not endowed with episcopal character, for the use of the churches and oratories within the limits of their territory, (*d*) pastors, for the churches and oratories within the limits of their parish, (*e*) priests delegated by the Ordinary of the place, according to the terms of the delegation and within the limits of the jurisdiction of the same Ordinary. (Can. 1304, nn. 1, 2, 3, 4.)

28. DIGNITIES AND OFFICES OUTSIDE A RELIGIOUS INSTITUTE

Chapter III of Title XVII of Book II bears the inscription: "Obligations and privileges of religious who have been promoted to an ecclesiastical *dignity* or to the government of a parish." Under this heading this chapter mentions also *offices* and *benefices*.

1. A *dignity* is an office which implies *ordinary jurisdiction in the external forum* and a corresponding degree of preeminence; for instance, the office of Bishop or vicar general; but this term is at times applied also to offices which *originally* implied ordinary jurisdiction and *at present* entitle the incumbent only to preeminence; for instance, the office of archdeacon in cathedral chapters. (Santi, *Praelectiones Juris Canonici.* III, v, 16.)

An *office,* in its broader sense, is any spiritual administration, as the office of canon, chaplain, pastor. (Can. 145.)

A *benefice* comprises two elements: a sacred *office* and the *right* to receive the *revenues* of the endowment attached to the office, and these two elements must have been permanently united by the competent ecclesiastical authority. The term *benefice* properly designates the juridical entity resulting from the action of the competent authority in thus establishing permanently a sacred office with corresponding revenues. (Can. 1409.)

The first canon of this chapter lays down the conditions which must be fulfilled in order that a religious may be lawfully promoted to such dignities, offices and benefices; and the canons that follow contain definite rules about the status of those who have been duly promoted to an ecclesiastical dignity or to the office of pastor.

2. According to Canon 626, § 1, no religious may, without the authority of the Apostolic See, be promoted to dignities, offices and benefices that are incompatible with the religious state.

A dignity (office or benefice) is incompatible with the religious state if it is of such a nature as to make it difficult for its incumbent to fulfil his religious obligations, especially the obligations that arise from the vows and from the law of community life. Offices which raise a religious to a higher rank than that of his superiors, or constantly require freedom of action in the management of affairs and property, or place the incumbent in the necessity of disregarding community life, are incompatible with the religious state, although for the sake of the common good the Apostolic See may authorize, and even oblige, religious to accept them. Practically there is no difficulty in regard to the dignities of Cardinal, Bishop, Vicar or Prefect Apostolic, because in the case of these appointments the authority of the Apostolic See is always required, independently of the status of the person to be selected. As to the dignity of vicar general, although the law excludes religious from this dignity, it allows them to accept it in dioceses that are entrusted to the care of the religious institute. (Can. 367.) Again, in regard to the office of pastor, the law itself sanctions the appointment of religious in the case of a parish legitimately entrusted to a religious community. (Cans. 456, 471.) Moreover, in defining whether an office is incompatible with the religious state it is well to consider the character and extent of the incompatibility or interference. This may be so slight that superiors may have power to grant the necessary permission or dispensation, especially in the cases of temporary appointments. In any case, religious may, with the permission of their superior, accept the office of synodal examiner, or, probably, even that of diocesan consultor; they are not excluded from the office of rural dean once they have been appointed pastors.

3. Even in the cases of offices not incompatible with the religious state, a religious who has been legally elected by an electoral college to an office outside his community

needs the permission of his superior before consenting to his election. (Can. 626, § 2.)

4. Finally, if a religious has taken a vow not to accept dignities, he must have a special dispensation from the Roman Pontiff. (Can. 626, § 3.) Such a vow is taken by certain members of the Society of Jesus.

5. A religious who has been created a Cardinal or has been promoted to the episcopal dignity, whether as a residential or as a titular Bishop, does not cease to be a religious. Consequently (*a*) he still enjoys the privileges belonging to his institute. Moreover, (*b*) he is bound by his vows and the other obligations which follow from his profession, in so far as they are compatible with the dignity to which he has been raised. In cases of doubt it is left to his prudent judgment to decide whether or not his religious obligations are compatible with his dignity. (Can. 627, § 1.) In regard to the vows of obedience and poverty the Code itself has defined the following points:

6. As to the vow of obedience, if a religious has been promoted to the dignity of Cardinal or Bishop, he is exempt from the authority of his religious superiors, and, by virtue of his vow, he is subject only to the Roman Pontiff. (Can. 627, § 2.) The same holds in the case of one who has been appointed Vicar or Prefect Apostolic without being raised to the episcopal dignity. (Declaration of Dec. 2, 1920. Creusen-Vermeersch, *Epitome Juris Canonici,* n. 631.)

7. As to the vow of poverty, in the case of religious who have been promoted to the episcopal dignity or to some other dignity outside their institute, a distinction has to be made between (1) religious who by their profession have lost the right to own property, and (2) those who have not lost this right. The former are those who have made the solemn profession or the simple profession in an institute in which the simple vow of poverty has the same effects as the solemn vow. The latter are those whose pro-

fession is simple without any special effects attached to it by particular law.

(1) In the case of religious who have lost the right to own property, a distinction must again be made between (*a*) the *use, usufruct* and *administration* of property which is conveyed to them after their elevation and (*b*) the *ownership* of the same property. As to the former (*a*) they belong to the prelate who has been promoted, as to the latter (*b*) if the prelate is a residential Bishop, or a Vicar or a Prefect Apostolic, the property goes to the diocese, vicariate or prefecture apostolic, respectively; if he has none of these charges, ordinarily the property goes to the order or to the Holy See in accordance with Canon 582; and we say *ordinarily,* because if the dignitary is a Cardinal, he has the right to dispose of the revenues of his benefice even by will, according to the terms of Canons 239, § 1, n. 19; 1298. (Can. 628, n. 1.)

(2) In the case of religious who have not lost the right to own property, they again acquire the right to the use, usufruct and administration of the property already in their possession and have full right to what may be conveyed to them in the future; that is, besides becoming the owners of such property they have also the right to the use, usufruct and administration of the same. (Can. 628, n. 2.)

(3) In both cases (1, 2) if anything is given to them under a title which is not personal, they must dispose of it according to the will of the donors. (Can. 628, n. 3.)

8. A religious who has resigned the dignity of Cardinal or Bishop, or has discharged the office entrusted to him by the Apostolic See outside his institute, is obliged to return to his community. However, in the case of a Cardinal or a Bishop, he has the right to choose, as his residence, any house of the institute, but he has no active or passive voice. (Can. 629.)

The two following canons deal with the status of a

religious who has been put in charge of a parish. (See PASTORS.)

29. DIOCESAN INSTITUTE

An institute is called *diocesan* if it has been canonically established by some Ordinary, without having yet received a decree of commendation from the Holy See. After a religious institute has been approved by the Holy See, or at least obtained from it a decree of commendation, it becomes *pontifical.* (Can. 488, n. 3.) (See ORDINARY OF THE PLACE, ¶¶ 3, 4.)

30. DIOCESAN SYNOD

1. The right to convoke the *diocesan synod* belongs exclusively to the Bishop of the place. (Can. 357, § 1.)

2. Besides the vicar general, the consultors, the pastors of the city where the synod is celebrated (whether secular or religious) and other members of the diocesan clergy, the Bishop must invite (*a*) the abbots who have governing powers and (*b*) one superior of each religious institute, residing in the diocese; this superior has to be designated by the provincial, unless, in case the provincial's house is in the diocese, the provincial himself wishes to be present at the synod. (Can. 358, § 1.)

3. Moreover, the Bishop may invite other members of the clergy, for instance other pastors (whether secular or religious) and other religious superiors, all with the right to vote, unless the Bishop expressly provides otherwise in his invitation. (Can. 358, § 2.)

4. Those who are obliged to take part in the synod and are detained by some legitimate cause are not allowed to send a procurator in their stead, but must inform the Bishop of the impediment. (Can. 359, § 1.) The Bishop has the right to punish those who are negligent by transgressing this enactment, unless the culprit be an exempt religious who is not a pastor. (Can. 359, § 2.)

31. DISMISSAL

I. *Dismissal of postulants and novices.*

II. *Dismissal by law.*

III. *Dismissal of religious with temporary vows.*

1. Before vows have expired.
   (*a*) Power to dismiss.
   (*b*) Conditions required for dismissal.
   (*c*) Effects of dismissal.
2. On expiration of vows.

IV. *Dismissal of religious with perpetual vows in non-exempt clerical institutes or in lay institutes.*

1. In institutes of men.
   (*a*) Conditions required for dismissal.
   (*b*) Power to dismiss.
2. In institutes of women.
   (*a*) Conditions required for dismissal.
   (*b*) Power to dismiss.
3. Special provisions for exceptional cases.

V. *Dismissal of religious with perpetual vows in exempt clerical institutes.*

VI. *Status of dismissed religious who had taken perpetual vows.*

1. In Title XVI on "Dismissal of Religious" the Code deals with the dismissal of those subjects, who after having finished their novitiate, *have made their profession* and, at the time of their dismissal, *are still bound by their vows*. But in this article mention is made also of the dismissal of *postulants* and *novices* as well as of those subjects who are sent away *on the expiration of their temporary vows*.

As usual, the canons and the corresponding explanation refer to the dismissal of religious of both sexes, even when

the masculine gender is used. (See TERMINOLOGY.) The exceptions to this rule are easily understood either from the *context*, as when there is question of the dismissal of *clerics* or from the *wording* itself, as when an explicit distinction is made between the dismissal of men and of women.

I. DISMISSAL OF POSTULANTS AND NOVICES

2. Postulants and novices may leave of their own accord or they may be sent away before or after their postulancy or novitiate has expired.

In keeping with Canon 571, § 1, it belongs to the constitutions to define in whom the power to dismiss novices resides. "A novice," the canon reads, "may be dismissed by superiors or by the chapter according to the constitutions." The same, of course, holds in the case of postulants.

3. Although postulants and novices have no strict right to be retained, religious authorities must have some just reason for dismissing them. Any moral or physical defect which makes a candidate unfit for the institute is certainly a just reason. While superiors must have some just reason for dismissing them, the former are not bound to manifest their reasons to them. (Can. 571, § 1.)

II. DISMISSAL BY LAW

4. There are cases in which the dismissal of religious is decreed by the law itself; that is, *by the very fact* that a religious commits certain crimes specified in the law, he is dismissed without the need of a decree or a sentence of *condemnation* from a judge or superior. Those who are thus legitimately dismissed are:

(1) Public apostates from the Catholic faith. (Can. 646, § 1, n. 1.)

(2) A religious who has fled with a person of the other sex. (Can. 646, § 1, n. 2.)

(3) (*a*) Religious who *attempt* to contract a marriage which is invalid. This would be the case, for instance, if one of the parties had the solemn vow of chastity, which incapacitates a person from contracting a valid marriage.

(*b*) Those who contract a valid marriage. This would happen in the case of religious with the simple vow of chastity, provided there would be no diriment impediment between the parties, and by deception these should succeed in contracting the marriage before the Church.

(*c*) Those who without the intention of contracting a true marriage enter a purely *civil* union; that is, a union which, without entailing a marriage bond, has the sanction of the civil authorities. (Can. 646, § 1, n. 3.)

In all these cases it is sufficient that one of the parties, either the man or the woman, be a religious.

5. When a religious has committed one or the other of these crimes, although there is no need of a decree or sentence of *condemnation*, it is necessary that the higher superior with his chapter or council, as the constitutions may define, issue *a declaration of the fact*. This declaration consists in an act by which the higher superior authoritatively declares that a certain religious has committed one of the above mentioned crimes, owing to which, by virtue of Canon 646, he is *ipso facto* regarded as lawfully dismissed. The proofs of the crime should be kept in the archives of the house. (Can. 646, § 2.)

III. Dismissal of Religious with Temporary Vows

1. before vows have expired

(*a*) *Power to Dismiss*

6. Those who have power to dismiss religious with temporary vows are: (*a*) in *pontifical* institutes, the superior general or the abbot of an independent monastery, with the consent of his respective council; or, when there is question of nuns, the Ordinary of the place, either by the

sole authority or, in the case of nuns who are subject to regulars, with the regular superior, after the superioress of the monastery with her council has testified to the reasons for the nun's dismissal.

(*b*) In *diocesan* institutes, the Ordinary of the place where the religious house is located; but he must not make use of his right without the knowledge of the superiors or in cases in which they reasonably object to the dismissal. (Can. 647, § 1.)

(*b*) *Conditions Required for Dismissal*

Those who have the power to dismiss religious with temporary vows cannot exercise it unless they fulfil the following conditions, to which they are bound by a grave obligation of conscience:

7. (*a*) The reasons for the dismissal must be *grave*. They can be either on the part of the institute or on the part of the religious. Although they must be grave, they do not necessarily suppose a grievous sin on the part of the subject. According to Canon 647, there will be a sufficiently grave reason if one is so lacking in religious spirit as to be a source of scandal to others and this, in spite of repeated admonitions and the infliction of salutary penances. On the other hand, ill-health does not constitute a sufficient cause, unless it be proved without doubt that before profession, it was deceitfully concealed. (Can. 647, § 2, nn. 1, 2.) The Code does not lay down any more definite rule on the *gravity* of the reasons for dismissal. A great deal is left to the prudence and judgment of superiors, who, however, must see that equity is not violated by their action. Thus it would not be in accordance with the rules of equity to dismiss a religious for lack of the necessary talents, if his deficiency was apparent at the time when he was admitted to temporary profession.

8. (*b*) The facts which afford a sufficient reason for

dismissal must be known with certainty by the superior who has power to dismiss, although they do not need to be proved in a formal trial. They must, however, always be made known to the religious, who must be given full opportunity to reply, and his answers must be faithfully submitted to the superior who has power to dismiss. (Can. 647, § 2, n. 3.)

9. (*c*) The religious has the right to appeal to the Holy See; namely, to the S. Congregation of Religious. While the appeal (*recursus*) is pending, the dismissal has no juridical effect (Can. 647, § 2, n. 4); that is, it cannot be enforced until the S. Congregation settles the case definitely. (See Appendix for late decree on dismissal.)

10. (*d*) Moreover, in the case of women, the enactments of Canon 643, § 2 must be observed. (Can. 647, § 2, n. 5.) Those enactments provide for the cases of women who had been received without a dowry, and who are now unable to support themselves. In such cases the religious institute is bound in charity to supply the dismissed person with what she needs for returning home safely and in a becoming manner. Besides, it must provide her with the means of an honest livelihood for a certain period of time, as natural equity may suggest in each particular case. The time for which the charitable allowance should last has to be determined by mutual agreement and in case of dissent it has to be determined by the Ordinary of the place.

(*c*) *Effects of Dismissal*

11. When a religious has been dismissed in accordance with the enactments of Canon 647, as explained in the preceding paragraphs, he is by that very fact freed from his religious vows. If, however, he is in sacred orders, he still has the obligation of celibacy and is moreover affected by the enactments contained in Canons 641, § 1 and 642. The former canon refers to his relations with his former

diocese, the latter contains the prohibition to exercise certain offices. (See LEAVING, ¶ 13.) If he is in minor orders, he is by the very fact of his dismissal reduced to the *lay* state (Can. 648); that is, he is no longer considered a cleric in regard to the rights and privileges granted by the law to the *clerical* state. (Can. 213.)

2. ON EXPIRATION OF VOWS

12. At the time the temporary vows expire, the institute may dismiss a subject by not allowing him to renew his temporary vows or not admitting him to the perpetual profession. Superiors must have some just and reasonable cause for so acting. Sickness is not such a legitimate cause unless it is proved with certainty that before profession it was deceitfully concealed or dissimulated. (Can. 637.)

According to Canon 543 the right to admit religious to perpetual profession belongs to the higher superiors, but before acting they must consult their council or chapter, according to the constitutions. (See PROFESSION, RELIGIOUS, ¶ 4, and Can. 575.)

The law does not define what causes may be looked upon as just and reasonable for dismissal. Surely those which are sufficient for dismissing subjects before the vows have expired are also sufficient for dismissing them on the expiration of their vows. In either case sickness affords a sufficient reason except under the circumstances just mentioned.

IV. DISMISSAL OF RELIGIOUS WITH PERPETUAL VOWS, IN EXEMPT CLERICAL INSTITUTES OR IN LAY INSTITUTES

1. IN INSTITUTES OF MEN

(*a*) *Conditions Required for Dismissal*

13. Before dismissal the following facts must obtain:

(i) Three grave, external crimes, whether against the laws which are *common* to all, or against the *special* laws concerning religious.
(ii) Sufficient warnings or admonitions.
(iii) Failure to amend. (Can. 649, with Cans. 656–662.)

14. (i) The Three Crimes. The three crimes must be of the same kind, or if they be of different kinds, they must be such that taken together they evince a perverse will, obdurate in the evil. One crime, however, is sufficient if it is continuous and virtually amounts to three because of repeated admonitions. (Can. 657.)

15. (ii) Admonitions. Before giving the admonitions there must be a certain amount of evidence that a crime has been committed. Sufficient evidence exists: (*a*) when the crime is notorious; (*b*) when the guilty party has admitted that he has committed it; (*c*) when other sufficient proofs have been gathered in an inquiry made for the purpose. (Can. 658, § 1.)

In carrying out this inquiry it is necessary to follow the enactments contained in Canons 1939, ff. (Can. 658, § 2.) The chief enactments contained in these canons are: This inquiry has to be held whenever a crime has not been sufficiently ascertained and yet from rumors, public report or other facts, the superior judges that the case calls for an investigation. (Cans. 1939, 1942.) The inquiry may be held by the superior himself, or better, by someone else delegated by him. (Can. 1940.) A general delegation is not sufficient. The inquisitor must be delegated in each particular case. He has the same obligations which ordinary judges have, especially in regard to the oath of keeping the proceedings secret, of faithfully fulfilling his office and of not accepting gifts. He cannot act as judge in the same case. (Can. 1941.) The investigation must be carried out secretly, but, of course, the official is not forbidden to inquire from persons

whom he believes to be acquainted with the facts. (Cans. 1943, 1944.) Finally, he must send his report, with his written opinion, to the superior. (Can. 1946.)

Having received the report, the superior will judge whether or not there is sufficient proof at hand that the party is guilty. In this case, he shall proceed to the first admonition. (Cans. 658, 1946.)

The admonitions must come from the higher superior. He may fulfil this duty, either himself, or through a mandatory, but he must not give authority to the mandatory before having received sufficient information about the crime in accordance with Canon 658, § 1, as has been explained above. (Can. 659.) The authority which has been given for the first admonition holds also for the second (Can. 659), as there must be two admonitions, one after each of the first two crimes. When there is question of crimes which are continuous, two admonitions are likewise necessary, but between the first and the second there must be an interval of at least three full days. (Can. 660.)

The superior must add to his admonitions suitable exhortations and reprehensions. He must also make use of such penances and penal remedies as are likely or apt to correct the guilty party and repair the scandal. (Can. 661, § 1.)

Besides, the superior must keep him away from the occasions of a new fall. For this purpose he should, if necessary, transfer him to another house, where it may be easier to watch him and where the occasion of falling may be more remote. (Can. 661, § 2.)

Each admonition must be coupled with the threat of dismissal. (Can. 661, § 3.)

16. (iii) Failure to Amend. It may be judged that the religious has failed to amend, if after the second admonition he has committed a new crime, or, in case of a continuous crime, he has persisted in the same one. After

the last admonition, it is necessary to wait at least six days before proceeding further. (Can. 662.)

(*b*) *Power to Dismiss*

17. Once the failure to amend, in spite of the two admonitions, has been ascertained, the superior general, with his council, giving due consideration to all the circumstances of the case, shall deliberate whether there is sufficient ground for dismissal. (Can. 650, §1.)

If the majority of votes decides for dismissal:

18. (i) In *diocesan* institutes the whole affair must be referred to the Ordinary of the place where the house of the professed religious is located. It belongs to the same Ordinary to issue the decree of dismissal, if in his judgment he believes that the case demands it. But this has to be done in conformity with Canon 647. (Can. 650, § 2, n. 1.) This canon deals with the dismissal of religious with temporary vows. (See above, ¶¶ 6, 8, 9.)

19. (ii) In *pontifical* institutes it belongs to the superior general to issue the decree of dismissal; but before his decree may go into effect, it must have been confirmed by the Apostolic See. (Can. 650, § 2, n. 2.)

20. (iii) Canon 650, § 2, n. 3 ends by declaring that the religious has the right freely to present his reasons and that his reasons and answers must be faithfully recorded in the proceedings. Whether, therefore, there is question of diocesan or of pontifical institutes, whether the decree of dismissal is to be issued by the Ordinary of the place or by the superior general, the religious must be told what the charges against him are, in order that he may defend himself. His defence must be recorded faithfully; that is, in its entirety, in the record of the proceedings, in order to enable the Holy See to act with full knowledge of the case if its intervention will be required. The Holy See may have to intervene either because the religious has recourse to it against the decree of the Ordinary or be-

cause it has to confirm the decree of the superior general in the case.

2. IN INSTITUTES OF WOMEN

(*a*) *Conditions Required for Dismissal*

21. When there is question of dismissing religious women, with perpetual vows, whether solemn or simple, there must also exist grave external causes and incorrigibility. Incorrigibility implies experiments, made with the object of giving the religious an opportunity to correct herself, and that these have failed, so that, in the judgment of the superioress, every hope of amendment is futile. (Can. 651, § 1.) In every case the reasons why she is liable to be dismissed must be communicated to a religious woman, and her answers must be faithfully inserted in the acts (Can. 651, § 2), as was said of the dismissal of religious with temporary vows (Can. 647, § 2, n. 3) and religious men with perpetual vows. (Can. 650, § 3.)

(*b*) *Power to Dismiss*

22. (i) In diocesan institutes it is the duty of the Ordinary of the place where the house of the professed religious is located to examine the causes for dismissal and to issue the necessary decree. (Can. 652, § 1.)

23. (ii) In regard to monasteries of nuns, whether with solemn or with simple vows, the Ordinary of the place must forward to the S. Congregation of Religious all the acts and documents of the case. Besides, he must enclose his own written opinion on the matter, and, if the monastery is subject to regulars, he must add the written opinion of the regular superior. (Can. 652, § 2.)

In regard to other pontifical institutes, the superioress general must refer the whole matter to the S. Congregation of Religious by forwarding to it all the acts and documents in the case. (Can. 652, § 3.)

In both cases (of monasteries of nuns and other pontifical institutes) the S. Congregation will decide as it thinks best. If it decides upon dismissal, the enactments of Canon 643, § 2 must be observed. (Can. 652, § 3.) These enactments contain special provisions for religious women received without a dowry. (See above, ¶ 10.)

3. SPECIAL PROVISION FOR EXCEPTIONAL CASES (WHETHER OF MEN OR WOMEN)

24. At times immediate action may be necessary. This is the case whenever, if a religious is kept any longer in the community, some grave exterior scandal will ensue, or the community will be threatened with some very serious harm. Under such circumstances, the religious may be sent back to the world by the higher superior with the consent of his council. If, however, the case is so urgent that there is danger in delay and there is no time for recourse to the higher superior, the religious may be forced to leave by the local superior with the consent of his council and of the Ordinary of the place. On leaving, the religious must at once cease wearing the religious habit.

The matter must be submitted without delay to the judgment of the Holy See; that is, of the S. Congregation of Religious. This must be done (*a*) by the Ordinary of the place, if he intervened by giving his consent to the decision of the local superior, or (*b*) by the higher superior, if it was he who caused the religious to leave. (Can. 653.)

V. Dismissal of Religious with Perpetual Vows in Exempt Clerical Institutes

25. Apart from the cases of certain crimes in which dismissal is effected by law without a condemnatory sentence of the judge, according to Canon 646 (see above, ¶ 5), a religious with perpetual vows, whether solemn or

simple, belonging to an exempt clerical institute, cannot be dismissed without a trial, in conformity with the following enactments, without prejudice, however, to the special provisions of Canon 668, as will be explained later. The law is so stringent that it revokes any exemption which the Holy See may have granted to any institute before promulgation of the Code. (Can. 654.)

26. The power to pronounce the sentence of dismissal belongs to the highest superior of an institute or of a monastic congregation, together with his council or chapter. In the case of a monastic congregation the highest superior referred to here is the abbot president. In the cases of other religious institutes it is the superior general. (See MONASTIC CONGREGATION; ABBOT, ¶ 4.) The council or chapter must be composed of at least four religious, exclusive of the superior. If the members of these two bodies are fewer than four, the president, with the consent of the others, shall appoint other religious to constitute the required number. The religious thus appointed will form, with the president, a collegiate tribunal. (Can. 655, § 1.) The president, with the consent of the others, shall appoint the *promotor justitiae* (prosecuting attorney), in accordance with Canon 1589, § 2. (Can. 655, § 2.) According to this Canon 1589, § 2, the prosecuting attorney must be a member of the same institute.

27. The trial, or judicial process, cannot begin unless (*a*) a religious has committed three grave, external crimes, (*b*) and in spite of the required admonitions, (*c*) he has failed to amend. These three conditions are the same as those which must be verified before a religious with perpetual vows of a non-exempt clerical institute or of a lay institute of men is dismissed. They are also governed by the same rules. These rules, which are contained in Canons 656–662, have already been explained in the preceding paragraphs. (See above, ¶¶ 13–16.)

28. According to those rules, we saw that, in the case of

non-exempt clerical institutes and of lay institutes of men, when the three conditions just mentioned have been verified, the superior general with his council must deliberate on the necessity of dismissal. In the case of exempt clerical institutes, when the same conditions are fulfilled, the immediate superior (the provincial, or local abbot) shall carefully gather all the facts and documents and forward them to the highest superior. The highest superior must hand them over to the prosecuting attorney in order that this official may examine them and propose his deductions. (Can. 663.)

29. Whenever the prosecuting attorney (in whom is vested the right to make further inquiry as he may judge proper) presents the charge, the regular trial must begin. In conducting this trial, the enactments contained in the first part of book four are, in due proportion, to be observed. (Can. 664, § 1.) These enactments relate to all persons who take part in the trial, especially the judge, the prosecuting attorney, the defendant and the witnesses; and they embody definite rules concerning the manner of procedure to be followed by them.

From the proceedings of the trial it must become evident that the three conditions mentioned above; namely, the three crimes, the double admonition and the failure to amend have been verified. (Can. 664, § 2.)

It belongs to the court carefully to weigh the allegations or pleas of the prosecuting attorney and of the defendant. If, having examined both, the court is satisfied that the facts just mentioned have been proved sufficiently, it shall pronounce the sentence of dismissal. (Can. 665.) But the sentence cannot be carried into effect unless it has been confirmed by the S. Congregation of Religious. The court, therefore, shall forward to this Congregation the sentence and all the acts of the trial as soon as possible. (Can. 666.)

30. In accordance with Canon 667, for *distant* coun-

tries the highest superiors may, with the consent of their council or chapter, delegate the faculty of dismissing subjects to trustworthy and prudent religious, who must be at least three in number. Countries are called *distant* in relation to the central seat of the general government. The exact meaning of the term is not defined by the law and need not be interpreted strictly. Countries distant in relation to Italy are surely those that lie beyond the ocean and probably also northern European countries. The highest superiors seem to be the same as those referred to in Canons 655, 663, including also the highest superiors of monastic congregations.

31. The delegation of which there is question in the preceding paragraph may be given for an indefinite period of time, so as to be possessed permanently and to be used not only under extraordinary circumstances but even in ordinary cases. The religious who have been thus lawfully appointed form a delegated tribunal to replace the regular court which otherwise would consist of the highest superior and four other religious. In exercising its power, this delegated tribunal must follow the enactments of Canons 663–666 mentioned in the preceding paragraphs. Hence, although it may pronounce the sentence of dismissal, its sentence cannot be carried into effect until it has been ratified by the S. Congregation of Religious.

32. In case of grave exterior scandal or of very serious harm threatening the community, a religious may, without delay, be sent back to the world by the higher superior, and if there be danger in delay and no time for recourse to the higher superior, he may be caused to leave by the local superior, with the consent of the latter's council. In either case the religious must at once cease wearing the religious habit. This provision is contained in Canon 668, and as far as it refers to the procedure to be followed before the religious is caused to leave, differs but slightly from that contained in Canon 653 concerning religious with

perpetual vows in non-exempt clerical institutes or in lay institutes of men. (See above, ¶ 24.) But in regard to religious with perpetual vows in exempt clerical institutes the present canon requires, moreover, that soon after the subject has been sent back to the world, the regular trial be commenced, if it was not begun before. This trial has to be conducted in the same manner as in ordinary cases of dismissal, in conformity with the preceding canons. (Can. 668.)

VI. Status of Dismissed Religious who had taken Perpetual Vows

33. Religious who are dismissed after having made their perpetual profession, are still bound by their vows, unless the constitutions or apostolic indults provide otherwise. (Can. 669, § 1.)

34. If a religious who has been dismissed is a cleric in *minor* orders he is by the very fact of his dismissal reduced to the lay state. (Can. 669, § 2.) (See above, ¶ 11.)

35. If he is a cleric in *sacred* orders and has committed one of the crimes for which dismissal is incurred by law according to Canon 646, or was dismissed in consequence of one of the crimes which by law are subject to the punishment of legal infamy, or deposition, or degradation, he is forever forbidden to wear the ecclesiastical dress. (Can. 670.)

36. If, however, the subject was in sacred orders and was dismissed for some less enormous crime than those just mentioned; *i.e.*, any offence for which the law has not decreed an *ipso facto* dismissal, legal infamy, deposition or degradation, the following enactments must be observed:

(*a*) He is suspended *ipso facto* until absolved by the Holy See. (Can. 671, n. 1.)

37. (*b*) The S. Congregation of Religious, if it deems it

advisable, shall order him to live in a certain diocese, wearing the clerical, secular garb and shall inform the Ordinary of the place of the reasons for which he was dismissed. (Can. 671, n. 2.) If the dismissed religious does not obey this precept of the S. Congregation, his institute has no further obligation towards him and he is *ipso facto* deprived of the right to wear the ecclesiastical garb. (Can. 671, n. 3.) Otherwise:

38. (*c*) The Ordinary of the diocese which has been assigned to him as his place of residence, shall send him to some house of penance or shall place him under the care and supervision of a pious and prudent priest. If the religious does not obey the Bishop's orders, the same provision mentioned at the end of the preceding paragraph has to be applied; that is, his institute has no obligation towards him and he is *ipso facto* deprived of the right to wear the ecclesiastical dress. (Can. 671, n. 4.) If he obeys:

39. (*d*) The institute must in charity provide him, through the Ordinary of the place, with what is necessary for his support, unless he is otherwise sustained. (Can. 671, n. 5.)

40. (*e*) If he fails to live as becomes an ecclesiastic, after a year, or even before, if the Ordinary so judges, he must be deprived of the charitable allowance, is to be expelled from the house of penance and must be deprived by the Ordinary of the right to wear the ecclesiastical dress. The same Ordinary shall without delay send full information of the case to the Holy See and to the institute. (Can. 671, n. 6.)

41. (*f*) If, however, during that time (a year or less), the dismissed religious shall have given by his praiseworthy conduct sufficient proof of true amendment, the Ordinary shall recommend to the Holy See his petition to be absolved from the censure of suspension. If the petition is granted, (*a*) the Ordinary should allow him to celebrate

the Holy Sacrifice of the Mass in his diocese, under whatever precautions and restrictions the case may require. These precautions and restrictions may refer to the *place,* the *time,* and all other circumstances connected with the Holy Sacrifice. Moreover, (*b*) if he judges that it may prudently be done, the Ordinary may allow him to exercise some other act of the sacred ministry. By these enactments the law intends to enable the dismissed religious to provide himself with the necessary means of support. The institute may then discontinue the charitable allowance. When there is question of a deacon or subdeacon, the matter must be referred to the Holy See. (Can. 671, n. 7.)

42. From Canon 671, in which all these enactments are embodied, it is clear that, once the suspension has been removed by the Holy See, the priest cannot be refused permission to say Mass. What is left to the judgment of the Ordinary is the exercise of other acts of the sacred ministry.

As appears from the preceding paragraphs (36–41), Canon 671 only lays down the procedure which has to be followed before a dismissed religious in sacred orders (who has made a perpetual profession) is reinstated in the exercise of the sacred ministry, provided he has not committed one of the more serious crimes mentioned above. (See above, ¶ 35.) This same canon, however, has no provision concerning the future of such a priest after his reinstatement. As he does not belong to any diocese (see PROFESSION, RELIGIOUS, ¶ 32), the following questions arise: May he secure one, and, if he may, under what conditions? The next Canon, 672, helps to solve these questions, but, in keeping with its content, it is necessary to distinguish two different cases:

(*a*) Religious with perpetual vows are not released from them by the very fact of dismissal, but

(*b*) There may be religious who are freed from them by virtue of their constitutions or apostolic indults. (See above, ¶ 33.)

43. (*a*) A religious who has not been released from his vows is obliged to reenter his institute and, in its turn, his institute is obliged to receive him, provided he has given sufficient proof of true reform for three years. At times, however, there may be reasons, either on the part of the religious or on the part of the institute, which stand in the way of his return. If these reasons are slight, they should not be taken into consideration, but if they are serious, the matter has to be referred to the Holy See and left to its judgment. (Can. 672, § 1.)

44. (*b*) A cleric who has been released from his vows, and who finds a Bishop willing to receive him, may be incardinated into his diocese, and may exercise the sacred ministry, but under the restrictions laid down in Canon 642 for ex-religious in general. (See LEAVING, ¶ 13.) If he does not find any Bishop willing to accept him, the case has to be referred to the Holy See. (Can. 672, § 2.)

32. DIVINE OFFICE

1. The *Divine Office* is the public prayer of the Church. It may be described as the collection of certain prayers, psalms and readings from Holy Scriptures and ecclesiastical writers, to be recited by certain classes of persons in the name of the Church. What renders the Divine Office a *public* prayer is precisely the circumstance that it is said in the name of the Church, independently of the fact whether it is recited in common or in private.

The Divine Office has various other names. It is called the *canonical hours,* because prescribed by the *canons* and distributed in different parts which correspond to different *hours* of the day. It is called *breviary,* from a Latin word *brevis* (short), because it embodies a compendium of the Old and New Testaments and selected passages from the writings of the Fathers and Doctors of the Church, or, according to others, because the present office, which, in

its substance, has been in use for several centuries, is the outcome of an older and longer office.

2. From the early history of the Church the recital of the Divine Office became a quasi-essential part of the religious life, and choir service was given a prominent place in their rules by the founders of monastic and mendicant orders. But choir service is not equally common in clerical institutes founded since the sixteenth century. Thus we have institutes, which by law, rule or custom, are destined to choir service, and others which are not.

3. With regard to the former, Canon 610, § 1 lays down the law that every day the Divine Office must be recited *in common,* according to the constitutions (*a*) in every house in which there are at least four choir members who are not prevented by a legitimate impediment and, (*b*) also in houses where there are fewer than four, if the constitutions so prescribe.

The institutes, therefore, which are not obliged to hold choir service by virtue of their constitutions or by custom are not affected by the law.

4. In institutes which are obliged to hold it, the obligation of reciting the Divine Office in common does not, as a rule, obtain where the choir members of the community are fewer than four, or where there are four, should one or more be lawfully excused because of illness or pressing occupation proper to the institute. We say that under these circumstances the obligation of reciting the office in common does not hold *as a rule,* because under these same circumstances it does hold if the constitutions require that the Divine Office be said in common even if the choir members are fewer than four.

5. Those who for any reason have not recited the office in common, if they are *solemnly* professed, are, with the exception of the lay brothers, obliged to say it in private. (Can. 610, § 3.) Religious who have taken only *simple* vows are obliged to take part in the choir, but if for some

reason or other they did not attend it, they are not bound to say the Divine Office in private, unless, of course, they have received sacred orders.

6. Under the law antecedent to the Code, it was admitted that the obligation to recite the Divine Office in common, in so far as the obligation comes *from the law,* did not affect those nuns and sisters who are bound by rule to say the *Little Office of the Blessed Virgin.* This for the reason that the law affected those institutes that were destined to recite the *Divine Office* (called also *canonical hours*) but the *Little Office of the Blessed Virgin* does not strictly fall under these terms. Authors like Ferreres and Barrett who have written since the Code went into effect, are still of the same view and rightly so because the same reason still holds.

7. Again, before the Code, even in the case of nuns who by rule are obliged to say the *Divine Office* properly so-called, the law did not bind under mortal sin those institutes in which, by virtue of some pontifical enactment, *all* the nuns take *only simple vows.* This was declared by the S. Congregation of Bishops and Regulars in an answer dated April 19, 1844 (Bizzarri, *Collectanea S. C. Episcoporum et Regularium,* p. 497), and there is sufficient ground for following the same declaration since the promulgation of the Code.

8. In communities which fall under the law of the common recital of the *Divine Office* as explained above, there must be also a daily Mass, which has to correspond, in rite, to the office of the day. (Can. 610, § 2.) In regard to institutions of *women,* the law prescribes that this Mass be said *whenever possible.* The reason of this clause in connection with women's institutes may be due to the fact that religious women must depend for their daily Mass on their chaplain, who at times, for some good reason, may be unwilling to say the Mass of the day, when it is not obligatory, or when votive and requiem Masses are allowed.

33. DOWRY

I. *Definition.*

II. *Obligation to bring a dowry.*

III. *Time of payment.*

IV. *Ownership.*

V. *Disposal.*

VI. *Administration.*

I. Definition

1. The *dowry* is a security in money or its equivalent for the purpose of helping a community to support its members. (Battandier, *Guide Canonique,* n. 135.)

II. Obligation to bring a Dowry

2. In regard to monasteries of nuns, whether with solemn or with simple vows, the Code says: "In monasteries of nuns, a postulant must bring the dowry fixed by the constitutions or defined by lawful custom." In regard to institutes with simple vows, it says: "In religious institutions with simple vows, as to the dowry of the sisters, the constitutions must be followed." (Can. 547, §§ 1, 3.) In neither of these two sections of Canon 547 does the Code clearly lay down a universal law to the effect that *in religious institutes of women, postulants must bring a dowry.* It insists, however, that any enactment on this point contained in the constitutions must be observed, leaving room for whatever may have been sanctioned by custom in the case of nuns.

3. As the Code refers to the *constitutions,* it is well to remark that, in approving new religious institutes, the Holy See, with some few exceptions, requires a fixed dowry. According to Article 91 of the *Normae* of 1901 (see Normae), a smaller sum may be required from *lay* sisters

than from *choir* sisters, but the sum must be the same for all the religious of the *same class,* respectively. The amount or tax may vary, and is determined or approved in each particular case by the S. Congregation of Religious. In several instances of communities founded in Europe in recent years the S. Congregation has been satisfied with the sum of 300 francs, the equivalent of about $60, when the rate of exchange is at par.

4. As to diocesan institutes, the amount or tax is fixed or approved by the Ordinary of the place.

5. Once the obligation of the dowry is established, religious superiors have no power to dispense, even partially, from it. When a dispensation is necessary, the law requires an indult of the Holy See in the case of pontifical institutes or the permission of the Ordinary of the place in the case of diocesan institutes. (Can. 547, § 4.) However, by virtue of special faculties received from the Holy See the Ordinary of the place may dispense also in the case of pontifical institutes provided the financial conditions of the community do not suffer therefrom and the postulant in whose favor the dispensation is granted is endowed with such eminent qualities as, in all likelihood, will render her a very useful member. This dispensation may also be granted by the Apostolic Delegate.

III. Time of Payment

6. In monasteries of nuns the dowry must be handed over to the community before the taking of the habit, or at least at that time it must be guaranteed in some manner recognized by the civil law. (Can. 547, § 2.) This might be done by depositing the sum, *in trust,* in a bank with the proviso that it shall be turned over to the community at the time of first profession. As to other religious institutes, the Code does not determine when the dowry must be handed over to the community. Let then the constitutions be followed on this point.

IV. Ownership

7. The dowry becomes the absolute property of the monastery or institute at the time of the death of the professed religious, if she dies in the community, even though she had taken only temporary vows. (Can. 548.)

8. If, on the other hand, a religious severs her connections with the community (monastery or institute) the latter loses all right to it. But this may happen in two different ways.

If a religious, whether with solemn or simple vows, leaves, and does not join another organization, the full dowry must be returned *to her,* minus, however, the interest which is due at the time of her departure. (Can. 551, § 1.)

If, by virtue of an apostolic indult, she leaves to join another organization, a distinction has to be made according to whether she joins another *independent* monastery of the *same order* or family, or *another religious institute.* (See Change of Institute.) In the former case, no novitiate is required and the dowry is due the new monastery from the day she makes the change. In the latter case, the religious must repeat her novitiate and the dowry is due the new institute only when she makes her profession in it. Moreover, in this second case, the new community has a right also to the interest during the time of her novitiate if it is one of those that by their constitutions or express agreement exact some compensation to defray expenses. (Cans. 551, § 2, 570, § 1.)

V. Disposal

9. In keeping with the purpose and character of a dowry, a religious is not free to dispose of it, even by will, unless (in making her will) she wishes to provide for the possibility of dying outside the community. At the same time, as long as she lives, the dowry cannot be disposed of by

the community for any purpose, even for building a house or paying a debt; but after the religious has made her first profession it must be set aside in some safe, lawful and productive investment by the superioress, with her council and the consent of the Ordinary of the place; in the case of nuns who depend on regulars, the permission of the regular superior must also be had. (Can. 549.)

VI. Administration

10. In order that the dowry may more securely answer its purpose, the Code ordains that the administration must be cared for in the monastery or in the house which is the habitual residence of the mother-general or of the provincial. (Can. 550, § 1.) Moreover, it places the dowry under the special supervision of the Ordinary of the place, especially at the time of his visitation. (Can. 550, § 2.) (See Property, Community, ¶¶ 5, 12; Sanction, ¶ 20.)

34. ELECTIONS

I. *In institutes of men.*

II. *In institutes of women.*
   1. In monasteries of nuns.
   2. In religious congregations.

III. *In all institutes.*
   1. Law in general.
   2. Law in particular.
      (*a*) Concerning time.
      (*b*) Convocation of electors.
      (*c*) Manner of voting.
      (*d*) Persons excluded from voting.
      (*e*) Essential requisites of a vote.
      (*f*) Procedure of election.
      (*g*) Election by compromise.
      (*h*) Requisite number of votes.
      (*i*) *Postulatio* (election by *petition*).

I. In Institutes of Men

1. Before proceeding to the election of higher superiors, all and each member of the chapter must promise under oath to give their vote to those who before God they believe should be elected. (Can. 506, § 1.)

II. In Institutes of Women

1. in monasteries of nuns

2. When there is question of electing the superioress of a monastery of nuns, if the community is not subject to regulars, the election is presided over by the Ordinary of the place or by his delegate. There must also be two priests to act as tellers. None of these should enter the cloister. If the community is subject to regulars, the election is presided over by the regular superior; but even in this case the Ordinary must be informed in due time of the day and hour of the election, because he has the right to assist at it, together with the regular superior, either personally or through his delegate. If he does assist (whether personally or through his delegate), he has also the right to preside. (Can. 506, § 2; Pontifical Commission on the Code, Nov. 24, 1920, *Acta Apostolicae Sedis,* XII, 574, 575.) The ordinary confessors of the community whose superioress is going to be elected should not be chosen as tellers. (Can. 506, § 3.)

2. in religious congregations

3. The election of the mother-general is always presided over by the Ordinary of the place where the election is held, or by someone delegated by him. In the case of the election of the mother-general in a diocesan congregation, it belongs to the same Ordinary to confirm or cancel the election, as he judges fit in the Lord. (Can. 506, § 4.)

III. In All Institutes

1. law in general

4. Of the rules mentioned in the two preceding points, I and II (*a*) not *all* affect *all* institutes, but some of them affect only institutes of men, some others only monasteries of nuns or congregations of women. Moreover, (*b*) the same rules refer only to the elections of *certain superiors,* not to the elections of other officials. All this is clear from the reading of the preceding Canon, 506, in which the rules given above are embodied. The following Canon, 507, also deals with elections, but it differs from the preceding in two ways: (*a*) it does not distinguish between various classes of institutes, nor (*b*) does it limit its rulings to the elections of superiors. The canon is divided in three sections and reads as follows:

(*a*) "In elections which are made by chapters, let the general law set forth in Canons 160–182 be observed, as well as those constitutions which are not contrary to the law." (§ 1.)

(*b*) "Let all avoid procuring votes either directly or indirectly for themselves or others." (§ 2.)

(*c*) "*Postulatio* (election by petition) can be admitted only in extraordinary cases and provided it is not prohibited by the constitutions." (§ 3.)

5. (*a*) The law contained in Canons 160–182 governs *ecclesiastical elections* in general. Whatever may be the import of these canons, of themselves, the present canon ordains that the law contained in them must be observed in *elections which are made by* (religious) *chapters,* without distinguishing between various classes of institutes or different kinds of elections. It seems, therefore, that whether there is question of clerical institutes or of lay institutes, of institutes of men or of women, whether it is a superior or some other official; for instance, a procurator general, who has to be elected, by virtue of Canon 507,

§ 1, the general law of Canons 160–182 must always be observed, provided the election is one of those that are made by *chapters*. The general law of those canons does not affect the elections which are made outside of chapters; for instance, if they are made in or by a *council*.

6. Moreover, this same canon prescribes that besides the rules contained in Canons 160–182, the rules also which the constitutions of each institute may prescribe must be observed, provided, however, the latter are not contrary to these canons. Thus, if the constitutions of an institute prescribe that there should be three tellers, this must be observed, because it is not contrary to the Code which requires "at least" *two;* but if the constitutions allow the tellers (who are appointed by the electors) to be taken *from outside* the body of electors, this point must be disregarded, because contrary to the Code which prescribes that the tellers must be taken *from among* the electors. (Can. 171, § 1.)

7. (*b*) In § 2 this same Canon (507) warns all religious, whether or not they are electors, not to procure votes in any way, either for themselves or for others. Evidently the object of this warning is to preclude, as far as possible, ambitious plans, and to secure perfect freedom of action in a matter of so great importance.

8. (*c*) Finally in § 3, this canon has reference to that form of election which is called *postulatio* (request, petition). This reference will be taken into consideration later, when the rules for this form of election are given.

2. LAW IN PARTICULAR

(*a*) *Concerning Time*

9. The election should not be deferred more than three months from the time when the vacancy of the office became known, except in cases in which the law or the constitutions provide otherwise. If the electors do not fulfil

their office in time and the election is one of those which need confirmation, the right of appointment devolves on the ecclesiastical superior to whom it belongs to confirm the election; in other cases this right devolves on him to whom it belongs to supply for the negligence of the electors. (Can. 161.) By law, confirmation is necessary in the case of the election of the general superioress of a diocesan congregation. (Can. 506, § 4.) No similar provision is contained in the Code for the election of the general superioress of a pontifical congregation.

(*b*) *Convocation of Electors*

10. It belongs to him who has the right to preside over the election to notify the electors of the time and place for their gathering, unless the constitutions contain a different provision on this point. (Can. 162, § 1.) Thus in institutes of women, ordinarily it is the general superior or her first assistant who exercises this office.

In case some of the electors were not notified: (*a*) if, notwithstanding the omission, they were present, the election does not thereby become invalid by law; (*b*) if they were not present and their number exceeds one-third of the total number of electors, the election is invalid by law; (*c*) if the number of those who were not present because they had not been notified does not exceed one-third of the total number of electors, the election is not invalid by law, but it must be cancelled by the competent superior if anyone of those who were neglected complains, provided it be proved that the complaint was transmitted within three days from the time when the election became known. (Can. 162, §§ 2, 3, 4.)

(*c*) *Manner of Voting*

11. The vote may be given only by those who are present on the appointed day; votes by letter or by proxy are excluded unless the constitutions allow them. However,

if one of the electors is present *in the house* where the election takes place and is prevented by illness from being present *at the voting*, the law itself prescribes that his vote, to be given in writing, is to be taken up by the tellers, unless the constitutions or lawful custom provides otherwise. (Cans. 163, 168.)

(*d*) *Persons Excluded from Voting*

12. (i) Those who are incapable of performing a human act, owing, for instance, to the lack of a sound mind. (ii) Those who are under a censure or under the punishment of legal infamy (*infamia juris*) in consequence of a sentence passed on them by an ecclesiastical judge. (iii) Those who once joined a heretical or a schismatical sect or publicly held membership in either.[1] (iv) Those who have no right of active voice whether in consequence of a sentence legally passed by an ecclesiastical judge, or by force of the law, either general or particular. (Can. 167, § 1.)

Although all such votes are null and void, they do not invalidate the election, except in the case in which *without them* the person who has been chosen lacks the requisite number of votes, as well as in the case in which the electors knowingly admit someone who is under excommunication in consequence of a judicial sentence. (Can. 167, § 2.)

[1] The Latin text reads: *qui sectae haereticae vel schismaticae nomen dederunt vel publice adhaeserunt.* An expression similar to this is to be found in Canon 542 where, among those who cannot be validly admitted to the novitiate, are mentioned *qui sectae acatholicae adhaeserunt.* On October 16, 1919, the Pontifical Commission on the Code declared that the expression used in Canon 542 is not to be understood of those who *were born in heresy or schism* and who, moved by divine grace, were converted to the Catholic Church, but only of those who held membership in either *after having renounced the Catholic faith.* (*Acta Apostolicae Sedis,* XI, 477). We take it for granted that when the present canon excludes from voting those who joined a heretical or a schismatical sect or openly held membership in such a sect, this expression has to be understood with the same limitation.

(*e*) *Essential Requisites of a Vote*

13. In order to be valid, a vote must be:

(i) *Free;* namely, not cast under compulsion, through grave fear or deception.

(ii) *Secret;* namely, it must be cast in such a manner that the other electors may not know for whom one is voting.

(iii) *Certain;* that is, not ambiguously expressed.

(iv) *Absolute;* that is, not depending on the fulfilment of a certain condition.

(v) *Determined;* namely, sufficiently defining the person in whose favor it is cast, so that it may fit only one definite person.

(vi) Not cast in one's own favor; when a vote is in one's own favor it is invalid. (Cans. 169, 170.)

(*f*) *Procedure of Election*

14. The votes are taken by two tellers. In the case of monasteries of nuns, these tellers are priests, as has been said above. (See above, ¶ 2.) (*a*) In other cases, unless the constitutions define who must fulfil this office, they are to be chosen by secret ballot, from the body of electors. The tellers must declare under oath that they will faithfully discharge their duty and keep the proceedings of the election secret even after the election is over. This oath has to be taken also by the president if he is a member of the body of electors. (Can. 171, § 1.) A Bishop or his delegate presiding at the election of religious women is not a member of the body of electors. (*b*) The tellers must take care that the electors cast their vote *secretly, with due diligence, one after another, following the order of precedence;* they gather all the votes in the presence of the presiding official, examine whether the number of votes corresponds to the number of electors and make known how many votes have been received by the various candidates.

(§ 2.) (*c*) If the number of votes exceeds the number of electors, the ballot is null and void and another ballot must be taken. (§ 3.) (*d*) After each ballot, or at the end of each session, if at the same session more than one ballot is taken, all the votes must be burnt. (§ 4.) (*e*) The proceedings of the election must be accurately written down by the secretary and carefully kept in the archives, after they have been signed by at least the secretary, the president and the tellers. (§ 5.)

(*g*) *Election by Compromise*

15. This form of election takes place when the voting is not made by the electoral body directly, but by persons who have been empowered by the same body to elect in their name. This kind of election is called *by compromise* (*per compromissum*) because it implies and requires a unanimous agreement or common consent of all the electors to stand by the choice which their delegates will make. These delegates need not be chosen from among the members of the body of electors, but if the body of electors is composed of clerics, they must be priests. They are bound to observe the conditions which the electors may have laid down when granting to them the power to elect, unless the conditions be contrary to law. If no conditions have been added by the electors, the delegates must observe the general laws which govern elections. The right given to the delegates to elect ceases and returns to the electoral body in the following cases: if the mandate is revoked by the latter before the former have begun to exercise their right; if any of the conditions laid down by the electors is not fulfilled; finally, if the delegates have exercised their right and their election was null and void. (Cans. 172, 173.)

(*h*) *Requisite Number of Votes*

16. In Canon 174 it is enacted that the person who must be declared elected by the president of the college is

the one who has received the number of votes required by Canon 101, § 1, n. 1.

17. The rules contained in Canon 101, § 1, n. 1, affect not only *elections,* but, in general, all the acts which are performed by ecclesiastical corporate bodies. According to this same Canon, these rules must be observed " unless it be otherwise expressly determined by the universal or particular law." This means that, if for some particular act the universal law (that is, a Church law contained in the Code) or the particular law (that is, a law which governs, for instance, a diocese or a religious institute) establishes rules *for reckoning the necessary number of votes,* different from those laid down in this canon, the former must be followed in preference to the latter. On this particular point, therefore, religious institutes may follow their own constitutions even though they be contrary to the rules contained in Canon 101, § 1, n. 1, because the canon itself gives them the preference. But what are these rules? They may be reduced to four, as follows:

(i) The affair to be decided upon (in our case, the election of religious officials) must have in its favor the *absolute* majority of valid votes. To have the absolute majority of a certain number of votes the total number of valid votes has to be divided by two; the larger of the two numbers constitutes the absolute majority. Thus if the total number of valid votes is 20 or 21, to have the absolute majority one must have received at least 11 votes; if the total number of valid votes is 30 or 31, to have the absolute majority one must have received at least 16 votes. If after the first ballot no one has received the absolute majority, a second ballot must be taken. If this also fails, a third ballot shall follow.

(ii) If at the third ballot no one has received the *absolute* majority, a *relative* majority will be sufficient for completing the election. The term *relative majority* always supposes that the valid votes are divided into more than

two groups, and it is constituted by the largest of them. Thus if the number of valid votes is 30 and the votes are divided in three groups, numbering respectively 9, 10, and 11 votes, the group of eleven will constitute a relative majority.

In reckoning the majority, whether absolute or relative, we have constantly referred to *valid* votes, because the votes which are *invalid* are not considered. An invalid vote is the same as a vote which is null and void. Such, for instance, would be the vote which, in an election, one has given to *himself*. To give an *invalid* vote is the same as to cast *no vote* at all or to cast a *blank* vote.

(iii) If at the third ballot no one has received a relative majority because all, or the higher groups are the same in number, the president of the body of voters may, if he so wishes, complete the election by casting a deciding vote, in consequence of which one of the equal groups will have the necessary relative majority; but should (iv) the president abstain from exercising this right (*a*) that candidate is *ipso facto* elected who is senior by ordination; (*b*) if all have been ordained at the same time or the electors are not clerics, the senior by profession; (*c*) if all have made their profession at the same time, the senior by age. (Can. 101, § 1, n. 1.)

(*i*) *Postulatio* (Election by Petition)

18. It may happen that the person whom the electors wish to choose for an office is excluded from it by law on account of some impediment. Thus the law excludes from the office of abbess, nuns who have not completed their fortieth year of age and from the office of general superior, sisters who have not completed their thirtieth year. In such cases there can be no question of an *election* properly so called, but only of a *postulatio,* or *petition.* This petition amounts to a request presented by the electors to the competent superior, to allow a candidate to

hold a certain office from which he would otherwise be excluded by law. In Canon 507, § 3, the Code expressly allows religious to use this form of election in *extraordinary* cases, provided the constitutions do not forbid it. Ordinarily, therefore, religious must elect to the office of superior persons who are not prevented by law from holding such an office; but under extraordinary circumstances, for instance, when there is no one else fit for the office but the one who is excluded by law, nothing prevents them from having recourse to this form of election. The petition must be presented by the electors, themselves, and cannot be presented by the delegates chosen by compromise unless these have received from the electors special power to this effect.

Ordinarily a *majority* of votes is sufficient for presenting this *petition,* but *two-thirds* of the votes are necessary (*a*) if they are required by the constitutions; (*b*) if some of the electors prefer the ordinary form of *election* by actually giving their vote to someone who is under no impediment and who, consequently, is eligible without a dispensation.

Finally, this petition must be presented to the superior who has the right to confirm the election, provided this superior has the necessary power to dispense; otherwise recourse must be had to the superior who has this power. In general, when there is question of impediments arising from universal laws or other pontifical enactments, recourse must be had to the Holy See. Thus if the electors wish to choose as their superior one who has not reached the age required by the Code, the petition must be sent to the Holy See, even when, as in the case of diocesan congregations, the right to confirm the election belongs to the Ordinary of the place. (Cans. 179–182. Pontifical Commission on the Code, July 1, 1922. *Acta Apostolicae Sedis,* XIV, 406.)

19. By letters dated March 9, 1920, the S. Congregation

of Religious declared that in those institutes whose constitutions forbid the reelection of the mother general for successive terms, the person who is thus forbidden to be reelected has to be considered as being *incapable* of holding the same office for the next term, even though the constitutions allow reelection on condition that two-thirds of the electors vote in her favor and that the election is confirmed by the Holy See. From the prohibition and the ensuing inhability (the document adds) it follows (*a*) that the same person cannot hold the same office for the next term without *grave* reasons, which must not be the mere wish of the electors or the fitness of the candidate and (*b*) that when grave reasons are at hand, there cannot be question of an *election* properly so called, but of canonical *postulatio* (petition) to be presented to the Holy See.

This same decree makes reference to monasteries of *nuns* whose constitutions embody the enactments of Gregory XIII on the reelection of abbesses and like superiors. By a constitution dated January 1, 1583, that Roman Pontiff ordered that in Italy the abbesses and like superiors of monasteries of nuns could not be reelected for a *second* term *immediately* after having governed the community for a term of three years. This new decree confirms, on this point, the constitutions in which the enactments of Gregory XIII had been inserted, and it extends to them the declaration explained in the preceding paragraph, concerning the reelection of superiors general. It adds, however, that in the case of abbesses and like superiors of monasteries of nuns, sufficient reasons for granting a dispensation are more easily verified, owing to the lack of fit subjects.

In keeping with this twofold declaration, the S. Congregation, by order of the Roman Pontiff, bids the Ordinaries who must preside at the election of a mother general in religious congregations and of the superioress in monasteries of nuns, to inform the electors (*a*) of the above men-

tioned inhability; (*b*) of the difficulty with which the Holy See grants such dispensations; (*c*) of the need of acquainting the Holy See, through the Ordinary, of the reasons which make a dispensation necessary; (*d*) of the inconvenience to which the electors expose themselves by reason of unavoidable delay before the S. Congregation may weigh the reasons and forward an answer.

Finally, when there exist truly grave reasons for procuring a dispensation, the Ordinary shall send the *petition* to the S. Congregation of Religious. In this petition let him state clearly and distinctly the number of ballots which were necessary for completing the *postulatio* and the number of votes which were cast in favor of the candidate; but let him especially state the reasons advanced by the voters for a reelection and express his own opinion on the whole matter. (*Acta Apostolicae Sedis,* XII, 365.)

20. The S. Congregation of Religious was asked whether the *founder* or *foundress* of a religious congregation or of a society without public vows, who holds the office of superior general, has the right to remain in office for life in case the constitutions prescribe that the superior general may retain his office only for a definite period of time and forbid a reelection. The answer was in the *negative,* unless there is an apostolic indult. (S. Congregation of Religious, March 8, 1922. *Acta Apostolicae Sedis,* XIV, 163.) (See SANCTION, ¶¶ 16, 17.)

35. ENCLOSURE

I. *In religious orders.*

II. *In religious congregations.*

III. *Additional provisions.*

1. For the sake of safeguarding religious discipline and especially the observance of the vow of chastity, the Church has enacted laws restricting the freedom of religious to

leave the house and forbidding externs, or certain classes of externs, to enter therein. The term *enclosure* may denote the *place* which is subject to these laws, or it may denote the *laws* themselves.

2. The enclosure is *papal* or *episcopal*. *Papal* enclosure is obligatory by pontifical laws and is subject to papal sanction. (See SANCTION, ¶¶ 4–6.) *Episcopal* enclosure is not subject to papal sanction, but it may receive a sanction from episcopal authority.

I. ENCLOSURE IN RELIGIOUS ORDERS

3. Papal enclosure must be kept in every canonically established house of regulars, whether of men or of women, even though the house be not a formal one. (Can. 597, § 1.) A house is canonically established when it is opened, according to law, as a permanent residence of a community, however small. (See RELIGIOUS HOUSE, ¶¶ 1, 2.) Hence, while a house, for instance, a scholasticate, is in course of construction, it is not subject to enclosure, even though it be occupied by a few religious who supervise the works; the same is true of a house in which religious reside temporarily, until the building which is to be used as a permanent residence is finished; or a house used only as a place of rest for religious during the time of their vacation. This papal enclosure supposes that in a community *solemn* vows are taken. Hence, the nuns belonging to communities whose members, according to their constitutions, ought to take solemn vows, but who by virtue of some pontifical enactment take only simple vows, are not subject to papal enclosure. We have many such communities in this country. (See NUNS, ¶ 3.)

4. The law of enclosure affects the whole house in which the community lives as well as the gardens, the grounds and similar places, which are reserved for the use of its members. The places excepted are: the church or public oratory, with the adjoining sacristy, the house destined

for guests, where there is one, and the parlor which, as far as possible, should be placed near the door of the house. (Can. 597, § 2.)

As the *whole* house which is used as a residence for the religious is subject to enclosure, this must include the sleeping rooms, the common rooms of recreation or of work, study-halls, the infirmary, the refectory, and the like. If a section of the house is reserved for the exclusive use of the attendants, it may be said that it is not subject to the law of enclosure, provided the two places are so constructed that practically they form two buildings.

5. As the Code determines the limits of the enclosure only in a general way and leaves certain places free from the law, it may be difficult in particular cases to know what are the exact limits of the enclosure. In order, then, that all may recognize them with certainty, the Code prescribes that the places which are under the law be clearly indicated after they have been defined by the higher superior or by the general chapter according to the constitutions, or, in the case of a monastery of nuns, by the Bishop. Once the limits of the enclosure have been duly established, they must be observed, but the same superiors just mentioned may change them for a legitimate reason (Can. 597, § 3), for instance if the building is extended or its various apartments are rearranged.

6. In regard to religious *men* (belonging to orders with solemn vows) the law of enclosure forbids the admittance of *women,* of whatever age, class or condition and under any pretext whatsoever. The law allows an exception in favor of the wives of those who are actually rulers of a nation. These may enter with their retinue. (Can. 598, §§ 1, 2.) By *rulers* of course, are understood emperors, kings and princes, provided they are such not in name only, but actually have the corresponding powers. Is the wife of the president of a republic, like France or the United States, also included in the exception? It seems that she

is, for the president of a republic is the ruler of a country, and often has greater powers than a king. It cannot be asserted with the same probability that the exception holds in the case of the wife of the governor of a state.

7. If the house of regulars has a boarding school attached to it, or some other institution within the scope of the order; for instance, a hospital or an asylum, a separate part, at least, of the building must, if possible, be reserved as a place of residence for the religious, to be subject to the law of enclosure. (Can. 599, § 1.) The Code implies, that, if owing to local circumstances this separation is not possible, the law of enclosure need not be strictly enforced.

Although the places which are reserved for the students, whether extern or intern, or are set apart for some purpose within the scope of the order, are not subject to papal enclosure, persons of the other sex should not be allowed to enter, except for some just reason, and with the superior's permission. (Can. 599, § 2.) To make visitors better acquainted with the character of the institution is surely a sufficient reason.

8. As to the enclosure of *nuns* (belonging to communities, in which *solemn* vows are taken) without a dispensation from the Holy See *no one* may be admitted into it, no matter of what class, condition, age or sex, except in the cases expressly mentioned in the law. (Can. 600.)

These express exceptions in the law are made:

9. (*a*) For the spiritual welfare of the community. The confessor, or he who replaces him, may, with due precautions, enter the enclosure to administer the sacraments to the sick or to assist the dying. (Can. 600, n. 2.)

The Code does not define in what these precautions must consist. According to former decrees, the priest who enters to administer the sacrament of Penance, if he is a regular, must be accompanied by a companion of his own order; if he is a secular priest, he must be accompanied by two nuns; in both cases, while the priest administers

the sacrament, those who accompany him should be in a place from which they can see the confessor, provided this can be done without interfering with the secrecy of confession. The priest who enters to administer Holy Communion must, if possible, be accompanied by four nuns, from the time he enters the enclosure until he goes out. (Alexander VII, Const. "*Felici,*" Oct. 20, 1664; S. Congregation of the Council, Sept. 13, 1553; S. Congregation of Religious, Sept. 1, 1912. *Acta Ap. Sed.*, IV, 627.)

The law gives faculty to enter the enclosure to the *confessor* or to the priest *who replaces him* in administering to the sick. Accordingly, whenever a nun cannot go to the place set apart for the administration of the sacrament of Penance, any priest who, according to law, may hear her confession (see CONFESSORS, ¶¶ 7 ff) is allowed to enter for this purpose. As to the ordinary administration of Holy Communion, the ordinary confessor, or the chaplain, or if none of these is available, any other priest may enter the enclosure, even daily, for the administration of this sacrament, whenever a nun is not in a condition to go to the choir. As to Holy Viaticum and Extreme Unction, the ordinary confessor or the priest who acts as his substitute, or, in case neither of these is at hand, any other priest has faculty to enter.

Moreover, the Ordinary of the place, or the regular superior, or their delegate, as canonical visitors, may enter the enclosure, but only in order to examine whether the enclosure is well observed. In entering they must have at least one companion of mature age, a cleric or a male religious. (Can. 600, n. 1.)

10. (*b*) For the temporal needs of the nuns. The superioress may give permission to physicians, surgeons and others whose work may be needed, like masons, plumbers, etc., to enter the enclosure, observing, however, the necessary precautions. To do this the superioress must have, beforehand, the approval of the Ordinary of the place,

although this approval need not be obtained each time in particular; a general approval will suffice. Moreover, in the absence of the general approval, if the case be urgent and there be no time for recourse to the Ordinary, his approval may be presumed. (Can. 600, n. 4.)

11. (*c*) By privilege. The law allows rulers and their wives, with their retinue, as well as Cardinals, to enter the enclosure. (Can. 600, n. 3.)

12. Professed nuns are not allowed, under any pretext, to go out of the monastery, even for a short time, without a special indult of the Holy See. In case, however, of an imminent danger of death or of any very serious harm, this indult is not necessary. If, however, time allows, the gravity of the present danger should be acknowledged in writing by the Ordinary of the place. (Can. 601, §§ 1, 2.) Moreover, by virtue of special faculties received from the Holy See the Ordinary of the place may, with due precautions, allow nuns to go out of the enclosure when there is urgent need of a surgical operation, even though there be no imminent danger of death or some other very serious harm. By virtue of the same faculties the Ordinary of the place may give permission to nuns to go into the church adjoining the monastery, for the sake of decorating or cleaning the sacred place, provided certain conditions specified in the apostolic faculties be fulfilled.

Finally, the Apostolic Delegate may allow nuns to remain outside the cloister temporarily, during a period of sickness and for other just, grave reasons, but the prescriptions of Canon 639 must be observed. (See LEAVING, ¶ 5.)

13. The enclosure of the monastery must be so protected that, as far as possible, externs may neither see those who are within, nor be seen by them. (Can. 602.)

14. The enclosure of nuns, of those also who are subject to regulars, is under the special supervision of the Ordinary of the place, who is empowered by the law to restrain delinquents, even though these be regulars, by

means of punishments and censures. (Can. 603, § 1.) As to nuns who are subject to regulars, their regular superior also has charge of the observance of this law and if the nuns over whom he has authority, or his own religious subjects, should violate it, he may punish them. (Can. 603, § 2.) (See SANCTION, ¶¶ 4, 5, 6.)

II. ENCLOSURE IN RELIGIOUS CONGREGATIONS

15. The enclosure, though not papal, must be kept also in religious congregations, whether pontifical or diocesan, to the extent that no person of the other sex may be admitted. The same exceptions, however, which the law allows in the case of the papal enclosure of religious orders hold in regard to this enclosure. (Canons 598, § 2, 600. See above, ¶¶ 6, 9, 11.) Moreover, other exceptions may be allowed by superiors for a just and reasonable cause. (Can. 604, § 1.) A just and reasonable cause might be to enable parents, brothers, and sisters to visit their near relatives in time of a serious illness, or to allow benefactors to note what advantages the community has derived from their generosity — for instance, an addition to the library or a devotional shrine.

16. If a community, whether of men or of women, has an institution attached to it, care must be taken to set apart, if it is possible, for its religious members a section of the house where the enclosure may be kept. In the other section, though free from the enclosure, persons of the other sex should not be admitted except for a just reason and with the superior's permission. (Can. 604, § 2. See above, ¶ 7, the corresponding enactment regarding institutions in care of orders of men.)

17. This enclosure has no papal sanction, but a Bishop may add to it a sanction of his own and safeguard it with censures, except in the case of exempt clerical institutes. However, he should have recourse to this means only when peculiar circumstances arise and grave reasons suggest this

course of action. In any case it belongs to the Bishop to see that this enclosure be properly kept and that abuses, which may have crept in, be corrected. (Can. 604, § 3.)

III. Additional Provisions

18. The laws of enclosure, as they are now embodied in the Code, do not forbid externs, whether secular or regular, to visit religious, provided visitors remain outside the limits of the enclosure. Those, however, who are the guardians of this law must exercise great care in seeing that on the occasion of visits from externs, the discipline of the house be not disturbed, and the religious spirit may not suffer from useless conversations. (Can. 605.)

19. Again, the law of enclosure referring to *orders of men* and that which affects *congregations,* both of *men* and of *women,* do not forbid religious to go out of the house, as the law affecting *orders of women* does. But what is not forbidden by the *universal law* may be forbidden by the *constitutions*. Accordingly, the Code urges religious superiors to see that whatever the constitutions may prescribe on this point be observed. The same recommendation is made by the Code in regard to the observance of the constitutions on admission of externs into the religious house, or on visiting externs. (Can. 606, § 1.)

20. Although within the limits admitted by the constitutions, superiors may give permission to go out, the law forbids them to allow their subjects to *dwell* outside a house of their institute, except for a just and grave reason and then only for as short a time as possible and always in accordance with the constitutions. This prohibition, however, must not be understood as interfering with whatever powers superiors may have for allowing their subjects to go out for the purpose of collecting funds, in accordance with Canons 621–624. (Can. 606, § 2.)

The period for which, on the conditions laid down in the preceding paragraph, superiors may allow religious to dwell

outside their religious house, cannot be protracted beyond six months, without permission of the Apostolic See, unless in favor of studies. (Can. 606, § 2.) According to this last clause, the universal law *does not require* the permission of the Apostolic See when the absence beyond six months is justified by studies, even in the case of sisters; but it *does not give to superiors special faculties in this regard,* and superiors cannot grant this permission if, by so doing, they would violate what the constitutions of their own institute may prescribe on the manner of keeping religious enclosure.

21. Finally, the superioress and the Ordinary of the place must earnestly see that at no time do religious go out without a companion, unless in case of necessity. (Can. 607.)

36. EXAMINATIONS

After having finished their course of studies, all religious priests must pass, for at least five years, an annual examination on various branches of the sacred sciences according to a suitable program prepared beforehand. The law exempts from these examinations the professors of sacred theology, canon law and scholastic philosophy. Moreover, it gives power to the higher superiors to exempt others for a grave cause (Can. 590); but according to a decree of the S. Consistorial Congregation, dated April 18, 1918, this exemption should not be granted to those religious who frequent lay universities. (*Acta Apostolicae Sedis,* X, 237.) The law does not determine either the number or the kind of branches of the sacred sciences which must form the basis of these examinations. It is left, therefore, to the discretion of superiors to define both. Selected points from two or three branches will suffice, and they may be taken from dogmatic or moral theology, Scripture or Canon Law, etc.

Canon 130 embodies a similar enactment for the secular clergy. It is evident that priests belonging to religious

institutes, whether exempt or not, who are bound by the enactment of Canon 590 explained in the preceding paragraph, do not fall under the provisions of Canon 130.

37. EXEMPTION

I. *Definition.*

II. *Institutes exempt by law.*

III. *Cases excepted.*

I. Definition

1. *Exemption* is a privilege by which a religious institute is withdrawn from the jurisdiction of the Ordinary of the place except in the cases expressly laid down in the law. (Can. 615.)

2. Prescinding from the exceptions, this privilege not only includes matters which belong to the *internal* government and discipline of the institute, but it extends to matters that come under its *external* government. Thus, for example, members of an exempt institute are free from the jurisdiction of the Ordinary of the place, not only in the exercise of the office which they hold in their institute, as religious, but also in the discharge of offices which imply the management of the affairs of externs, such as that of tutor or guardian of orphans. (Can. 139, § 3.)

3. This is the general rule, but the condition and circumstances of the persons to whom this privilege is granted required that exceptions should be made. Most religious do not lead a solitary life, and their actions are apt to be edifying or scandalous to externs according as they are, or are not, faithful to the obligations of their calling. Moreover, besides attending to their own sanctification and perfection, religious attend to the spiritual welfare of others by exercising the sacred ministry, instructing the young, taking care of the sick and the afflicted. Owing to this

continual and mutual intercourse between religious and the faithful, it was but natural that, as the faithful are subject to the Ordinary of the place, so the religious should in many cases be subject to him. Were it otherwise, Ordinaries would often be unable to protect the spiritual welfare of their own subjects. These cases form the exceptions which have wisely been introduced by law.

II. Institutes Exempt by Law

4. The exemption described in the preceding paragraphs belongs by law to all regulars, whether professed or novices, whether men or women, with their houses and churches, but in the case of women it is not shared by those nuns who are not subject to regulars. (Can. 615.)

5. The exemption that belongs to the *churches* and *houses* of regulars is not exactly *territorial.* Were it territorial; *i.e.,* were the exemption to affect the territory directly, the mere fact of living in the territories occupied by a house of regulars would entitle a person to exemption. But this is not the case. Persons, others than those mentioned in Canon 615, do not enjoy by law the full benefit of exemption, although those who live within the precincts of a house of a clerical institute enjoy certain favors specified in the law. (See Last Sacraments, ¶ 1; Funerals, ¶ 4.) When the law declares that regulars are exempt *with their churches and houses,* it means that the administration of these places is under their exclusive control, except when otherwise decreed by law.

6. Among the nuns who are *not* subject to regulars we may mention the Visitation nuns; these are not exempt from episcopal jurisdiction, whether they take simple or solemn vows.

7. The nuns who *are* subject to regulars, are, as a rule, those who belong to a *second* order, as the Poor Clares, the Discalced Carmelites, the Dominican nuns; these are exempt from episcopal jurisdiction, but only in countries

where they take *solemn* vows; in countries where they take *only simple* vows, they are not subject to the regular superiors of the corresponding first order, and hence do not fall under the rule established in Canon 615 and do not enjoy the privilege of exemption.[1] In almost all the monasteries of the country nuns take only simple vows (see NUNS, ¶ 3) and consequently almost all of them are subject to the Ordinary of the place, even though they belong to a second order, unless they have received a special privilege by apostolic rescript.

8. Religious congregations, that is, institutes with simple vows, are not exempt by law. (Can. 618, § 1.) To enjoy this privilege they need a special concession of the Holy See, such as has been granted to the Congregation of the Most Holy Redeemer and of the Passionists. Not being exempt, religious congregations fall under the jurisdiction of the Ordinary of the place, whether legislative, judiciary or coercive. Thus they are bound by diocesan statutes and the corresponding sanction, except in cases in which the law leaves them under the exclusive authority of their superiors, as for instance, in regard to the yearly examinations. (See Cans. 130, 590, about secular priests and religious priests, respectively.)

9. While, in general, the Ordinary has jurisdiction over religious congregations, his power over those that are pontifical is limited as follows:

He cannot introduce changes in their constitutions or interfere in matters belonging to the internal government and discipline, except in the cases, concerning lay institutes, expressly mentioned in Canon 618, § 2 (see VISITATION, ¶ 4), and in other cases expressly mentioned in different canons, as the administration of property within the limits established in Canons 533–535; the opening of a new house;

[1] Piat, *Praelectiones Juris Regularis,* Vol. II, p. 5; Bouix, *De Jure Regularium,* Vol. II, p. 132; Vermeersch-Creusen, *Epitome Juris Canonici,* n. 619; S. Congregation of Religious, May 22, 1919. (*Acta Apostolicae Sedis,* XI, 240.)

the dismissal of professed under extraordinary circumstances; the examination of postulants, novices and professed, in institutes of women, before admission to the habit, the first vows and the perpetual profession, respectively. (See COMMUNITY PROPERTY, ¶¶ 5, 9, 12–14; RELIGIOUS HOUSE, ¶ 3; DISMISSAL, ¶ 24; PROFESSION, RELIGIOUS, ¶ 19.)

III. CASES EXCEPTED

In keeping with what has been said in the beginning of this article, notwithstanding the general privilege of exemption, there are cases in which regulars who are exempt by law and those religious of simple vows who are exempt by a special rescript of the Holy See, are subject to the Ordinary of the place. Four such cases are mentioned in Canons 616, 617 and are briefly examined in the following paragraphs.

10. (1) The privilege of exemption is not enjoyed by regulars who, without due authorization, *dwell* outside their houses. (Can. 616, § 1.) An unlawful absence of a *few* hours or perhaps of a day or two, is not sufficient for putting a regular under the complete jurisdiction of the Ordinary of the place. On the other hand, it is not required that the absence be protracted indefinitely.

11. (2) By virtue, then, of § 1 of Canon 616, regulars are subject to the Ordinary of the place if they are absent from their religious house *unlawfully*. By virtue of § 2 of this same canon, even regulars who are absent from it *lawfully* fall under the jurisdiction of the Ordinary of the place, if, while out of the religious house, they commit a crime. In this case, if, after having been informed of the crime, their superior does not punish them, the Ordinary of the place has the right to do this, even after the religious have returned home. (Can. 616, § 2.)

A crime is an external and morally imputable violation of the law which has a sanction attached to it, either deter-

mined by the law itself, or left to the discretion of the judge or superior. (Can. 2195, § 1.)

The law supposes that the crime has been committed out of the religious house. By virtue, therefore, of this canon, an exempt religious is not liable to be punished by the Ordinary of the place, if the crime has been committed within the limits of the religious house.

The present law is taken from the Council of Trent. The Tridentine law supposed that the crime had been committed *publicly*. The present law has no reference to the publicity of the crime.

Moreover, the law gives power to the Ordinary to punish such delinquents only if superiors neglect their duty and fail to punish them after having been warned.

12. (3) If *abuses* have crept into houses or churches of regulars or of other exempt religious, and, after having been warned, the superior has failed to do his duty, the Ordinary of the place has the obligation of notifying the Apostolic See at once. (Can. 617, § 1.) An *abuse* supposes a *habitual* breach of law in serious matters. The Ordinary of the place would, therefore, be bound to inform the Apostolic See if, for example, religious repeatedly broke the laws of enclosure, or seriously disregarded the liturgical laws in their churches, in spite of the fact that the superior has been opportunely warned by the same Ordinary to remedy matters. On the other hand, isolated transgressions committed by a few individuals, especially in slight matters, would not call for his intervention.

13. (4) By virtue of § 1 of Canon 617 just mentioned, in the case of abuses, the Ordinary's intervention is limited to warning the superior and, if necessary, referring the matter to the Apostolic See. By virtue of § 2 of this same canon, more extensive power is granted to the Ordinary of the place, but his power is confined to *non-formal* houses. (See FORMAL HOUSE.) According, then, to § 2 of Canon 617, a non-formal house remains under the special vigilance

of the Ordinary of the place, who, if abuses have crept in, to the scandal of the faithful, has the right to take such provisional measures as the case may require.

The other cases, in which exempt religious depend, in a greater or lesser degree, on the Ordinary of the place, are briefly referred to in the following paragraphs. After each paragraph the reader will find the reference to the respective article in this work, in which the case is explained.

14. (5) Accepting property left in trust to a religious for the benefit of the diocese. (See CAUSAE PIAE.)

15. (6) Opening schools, hospitals and similar institutions. (See CHARITABLE INSTITUTIONS; RELIGIOUS HOUSE.)

16. (7) (*a*) Selection of a site for a new church or public oratory.

(*b*) Episcopal enactments for safeguarding divine worship.

(*c*) Celebration of the Divine Offices, interfering with instructions in the parochial church.

(*d*) Acts of public worship ordered by the Ordinary of the place.

(*e*) Catechetical instruction and explanation of the Gospel.

(*f*) Admission of the Bishop to administer the Sacrament of Confirmation. (See CHURCHES.)

17. (8) Begging, when not done by resident members of an order that is mendicant in name and reality. (See COLLECTING.)

18. (9) Presence at the diocesan conferences. (See CONFERENCES.)

19. (10) Confraternities and pious unions. (See CONFRATERNITIES AND PIOUS UNIONS.)

20. (11) Consecration of sacred places, church bells and immovable altars. (See CONSECRATIONS AND BLESSINGS.)

21. (12) Presence at the diocesan synod. (See Diocesan Synod.)

22. (13) Violation of the papal enclosure of *nuns*. (See Enclosure.)

23. (14) (*a*) Carrying Holy Communion to the sick.

(*b*) Public exposition of the Blessed Sacrament in their churches and public oratories.

(*c*) Regulations about the forty hours' devotion. (See Holy Eucharist.)

24. (15) (*a*) Diocesan statutes and customs in the matter of stipends for Masses.

(*b*) Regulations regarding the admission of visiting priests to the celebration of Mass.

(*c*) Regulations about compensation for the use of sacred utensils. (See Holy Sacrifice.)

25. (16) Publication of indulgences. (See Indulgences.)

26. (17) (*a*) Legal proceedings in cases depending on the Holy Office.

(*b*) Controversies of religious with members of a different religious institute or with seculars. (See Judicial Power.)

27. (18) Administration of the last sacraments to externs. (See Last Sacraments.)

28. (19) Sacred ministry in Vicariates and Prefectures Apostolic. (See Missionaries.)

29. (20) Reception of the sacrament of Orders. (See Orders, Sacrament of.) The *imperata* or prayer ordered by the Bishop and mention of his name in the Canon of the Mass. (See Ordinary of the Place, ¶ 7.)

30. (21) Papal blessings. (See Papal Blessings.)

31. (22) Division of parishes. (See Parish.)

32. (23) Office of parochial vicar. (See Parochial Vicars.)

33. (24) Office of pastor. (See Pastor.)

34. (25) Confessions of secular and of non-exempt religious. (See PENANCE, THE SACRAMENT OF; CONFESSORS.)

35. (26) Admission of the Metropolitan and of the Bishop to perform sacred functions with the use of pontificals in their churches. (See PONTIFICALS.)

36. (27) (*a*) Preaching to seculars and to non-exempt religious.

(*b*) Admission of the Ordinary of the place to preach in their churches. (See PREACHING.)

37. (28) Settling of controversies on precedence. (See PRECEDENCE, RULES OF.)

38. (29) (*a*) Processions ordered by the Ordinary of the place.

(*b*) Holding processions outside their churches. (See PROCESSIONS, SACRED.)

39. (30) Professions of faith. (See PROFESSION OF FAITH.)

40. (31) Presence at the provincial council. (See PROVINCIAL COUNCIL.)

41. (32) Publication of books and contributing to newspapers and magazines. (See PUBLICATION OF BOOKS.)

42. (33) Rectors of non-parochial churches. (See RECTORS OF CHURCHES.)

43. (34) Opening new houses. (See RELIGIOUS HOUSE.)

44. (35) Exposition of images in churches and public oratories. (See SACRED IMAGES.)

45. (36) Tax for the support of the episcopal seminary. (See SEMINARY TAX.)

46. (37) Third orders. (See THIRD ORDERS.)

47. (38) Inspection of schools for externs, in matters of religion and morality. (See VISITATION, CANONICAL.)

The cases in which the law expressly gives authority to the Ordinary of the place over *nuns* who are actually subject to regulars and who enjoy the privilege of exemption are collected under the following headings, with references to the articles in which the cases are explained:

48. (1) Administration of property. (See COMMUNITY PROPERTY.)

49. (2) Confessions. (See CONFESSORS.)

50. (3) Dismissal. (See DISMISSAL.)

51. (4) Dowry. (See DOWRY.)

52. (5) Elections. (See ELECTIONS.)

53. (6) Enclosure. (See ENCLOSURE.)

54. (7) Examination of candidates before being admitted to the habit and to the profession, whether temporary or perpetual. (See NOVITIATE, ¶ 31; PROFESSION, RELIGIOUS, ¶ 18.)

55. (8) Changing administrator of property and disposal of revenues. (See PRIVATE PROPERTY.)

38. EXEMPT INSTITUTE

An *exempt* institute is any religious order or congregation that has been withdrawn from the jurisdiction of the Ordinary of the place. (See EXEMPTION; ORDINARY OF THE PLACE, ¶¶ 3, 6.)

39. FORMAL HOUSE

By a *formal* house (*domus formata*) is understood a religious house with six or more residing professed religious, of whom, in the case of a clerical institute, four, at least, must be priests. (Can. 488, n. 5.) *Postulants* and *novices* are not taken into consideration, but the *professed only*, whether of *solemn* or of *simple* vows. (See EXEMPTION, ¶ 13.)

40. FUNERALS

1. (1) The remains of religious are to be carried to the church or oratory of the religious house, or at least, of the institute, to which they belonged. The same holds in the case of novices, unless these made use of the free-

dom which they enjoy by law to select the church where the sacred obsequies are to be held. (Cans. 514, § 4, 1221, § 1.) The right to choose the church from which one is to be buried belongs to all the faithful, with the exception of professed religious (unless they are Bishops) and of children below the age of puberty, for whom, however, the church may be chosen by their parents or guardian. (Can. 1224.) But in making the choice one is not altogether free. The choice must fall on a parish church, or on a church belonging to a religious order of men, or on a church that has legitimately acquired the right to hold sacred obsequies. (Can. 1225.)

2. (2) (*a*) According to Canon 1221, § 1, the right *to accompany the remains to the church* where the sacred obsequies are to be held belongs always to the *religious superior.* This provision has surely to be applied to *clerical* institutes. No explicit mention is made of the right *to perform the sacred obsequies in the church,* but this right must belong to the same superior, at least when the institute is exempt. It would seem that the same provision includes also *lay* institutes of *men.* If it does, the rights just mentioned may be exercised through the chaplain of the community.[1]

(*b*) In the case of *lay* institutes of *women,* after the remains have been carried to the threshold of the enclosure by the nuns or sisters, if the community is exempt from the jurisdiction of the pastor, the right to accompany the remains to the church or oratory of the religious house and to hold therein the sacred obsequies belongs to the chaplain; if the community is not exempt, the same right belongs to the pastor. (Can. 1230, § 5.) A religious community of women may be exempt from the jurisdiction of the pastor either because it is a community of nuns who depend on regulars (see EXEMPTION, ¶¶ 4, 7), or because

[1] This is the view taken by Fanfani, *De Jure Religiosorum,* nn. 97, 127.

the Ordinary of the place has exempted it from parochial jurisdiction by virtue of Canon 464, § 2.

3. (3) When religious die outside their religious houses, and the church or oratory of their house or institute is too far away, their remains should be carried to the church of the parish where they died, except when there is question of novices who had chosen another church for the sacred obsequies, or when superiors are willing to have the remains of the deceased carried to the church or oratory of their institute. (Can. 1221, § 2, Can. 1230, § 5, with Can. 1218, § 3.)

4. (4) Workingmen who are actually employed in the service of the community and reside habitually on the premises have the same right as novices; but if they die outside their habitual residence, they fall under the same general rules that govern the funerals of the faithful in general. (Cans. 514, § 4, 1221, § 3.)

41. HABIT, RELIGIOUS

1. The Church requires that *clerics* should wear a modest, decent dress, distinctive of their state, but the universal law, embodied in Canon 136, § 1, does not determine the *details* of this dress and directs that in this matter legitimate local customs and diocesan statutes be followed.

2. In regard to *religious,* whether these be cleric or lay, men or women, the universal law contained in Canon 596 requires that, both at home and abroad, they shall all wear the habit which is distinctive of their institute, unless excused by some grave reason as the higher superior, or, in case of urgent necessity, the local superior may judge.

3. The novices must wear the habit which the constitutions prescribe for them, unless local circumstances require otherwise. (Can. 557.) The dress, or garb, of postulants shall be different from that of novices. (Can. 540, § 2.)

4. The habit which has been chosen by a religious institute cannot be adopted by a new religious institute, nor may it be worn by those who do not belong to it. (Can. 492, § 3.)

5. Religious who have been legitimately invested with it must lay it aside when they leave or are dismissed. (Cans. 639, 653, 668, 671.) (See LEAVING, ¶ 5; DISMISSAL, ¶¶ 24, 32, 37.)

6. Clerics are not allowed to wear a *ring* except by special concession of the law or by an Apostolic indult. (Can. 136, § 2.) In several institutes of women a modest ring is prescribed for the professed of perpetual vows as a pledge of their alliance with their heavenly Spouse.

42. HOLY EUCHARIST

I. *Where it may be kept.*
II. *Exposition of the Blessed Sacrament.*
III. *Forty hours' devotion.*
IV. *Communion of the sick.*
V. *Frequent Communion.*

I. WHERE IT MAY BE KEPT

1. The Blessed Sacrament must be kept in cathedral churches; in the principal church of each of the territories that are governed by an Abbot *nullius,* or by a Vicar Apostolic, or by a Prefect Apostolic; in every parochial or quasi-parochial church, and in the church adjoining the house of exempt religious, whether of men or of women. (Can. 1265, § 1, n. 1.)

2. With the permission of the Ordinary of the place the Blessed Sacrament may be kept in a collegiate church and in the main oratory, whether public or semi-public, of charitable institutions, religious communities and ecclesiastical colleges, whether these are directed by the secular clergy or by religious. (Can. 1265, § 1, n. 2.)

3. Where, in keeping with the enactments contained in the two preceding paragraphs, the Blessed Sacrament is kept, ordinarily Mass must be celebrated at least once a week. Moreover, there must be some competent person whose duty is to have care of the Blessed Sacrament and guard the Holy Tabernacle against profanations of any kind. (Can. 1265.)

4. To keep the Blessed Sacrament in other churches and oratories besides those mentioned above, an apostolic indult is necessary; in the cases, however, of a church or of a public oratory, the Ordinary of the place may also, for a just reason, grant permission, but this is not to be permanent. (Can. 1265, § 2.)

Other enactments concerning the place where the Blessed Sacrament is kept are contained in Canon 1267. According to this Canon, together with the interpretation given by the Pontifical Commission on the Code, June 2, 3, 1918 (*Acta Apostolicae Sedis*, X, 344):

5. (*a*) As a general rule, the Blessed Sacrament cannot be kept *both* in the church *and* in the main oratory of the house of a religious community or charitable institution, and, of these two places, the *church* must be preferred if it is used for the ordinary pious exercises of the community.

6. (*b*) If the church is not used for this purpose, the Blessed Sacrament may be kept in the main oratory of the house and *there only*. If, however, the character of the church requires that the Blessed Sacrament be kept there also (for instance, if the church is parochial), the Blessed Sacrament may be kept in both places.

7. (*c*) When it is allowed to keep the Blessed Sacrament in the oratory of the house, it is forbidden to keep it in more than one oratory, unless the same building contains two distinct communities. Cases in point are: when in the same building there reside two communities of different institutes; or two communities of the same religious family, but each of them independent of the other, such as, for

instance, two monasteries of the Visitation; or two communities of the same religious institute, each governed by its own superior, having the powers of local superiors, as a scholasticate and the *curia* of the superior general; finally, a religious community and an institution (college, hospital, etc.) connected with it.

8. (*d*) All privileges contrary to these enactments, that had been granted before the Code, were revoked by Canon 1267.

II. Exposition of the Blessed Sacrament

9. Exposition of the Blessed Sacrament is *public* or *private*. It is private when the Blessed Sacrament is exposed to the veneration of the faithful without being taken out of the ciborium; it is public when it is placed in the monstrance, so that the Sacred Host may be seen by the bystanders.

10. The private exposition may be held, for any just reason, in every church or oratory where it is allowed to keep the Blessed Sacrament and no permission of the Ordinary of the place is required. (Can. 1274, § 1.) The need of some spiritual or temporal favor, whether for the community or for individuals, is always a just reason. At this private exposition the tabernacle is opened, but the ciborium is not taken out except for giving Benediction. This Benediction, however, is not allowed, unless there is a long standing custom in its favor or permission from the Ordinary of the place has been secured. After at least six candles have been lighted on the altar, the priest, in surplice and stole, preceded by two acolytes, enters the church or chapel, and opens the tabernacle. Incensing is not obligatory, more usually it is omitted. The Litany of the Blessed Virgin or other prayers may be recited or sung, and these are followed by the *Tantum ergo* with the usual versicle and prayer. The tabernacle is then closed. Where Benediction is allowed it is given at the

usual time, after the *Tantum ergo,* by the priest wearing the veil; after Benediction the tabernacle is closed.

11. Public exposition is allowed in all churches, during Mass and Vespers on the Feast of Corpus Christi and within the following octave. At other times it is not allowed, even in the churches of exempt religious, without the permission of the Ordinary of the place. (Can. 1274, § 1.)

III. Forty Hours' Devotion

12. In all churches where the Blessed Sacrament is kept, the *forty hours'* devotion, or a *similar* devotion, must be held on appointed days, to be determined with the consent of the Ordinary of the place. (Can. 1275.)

IV. Communion of the Sick

13. When Holy Communion has to be administered to the sick in their homes, the Blessed Sacrament should be carried *publicly;* that is, in a visible manner, by a priest wearing church vestments, accompanied by clerics, etc., unless for just and reasonable causes it is deemed more advisable to carry it *privately;* that is, by a priest without the use of church vestments and without any outward sign or ceremony. (Can. 847.) These just and reasonable causes generally exist in this country owing to the presence of so many non-Catholics who would not show to the Blessed Sacrament the reverence which is due to it.

14. Where Holy Communion can be carried publicly, the right and duty to do so belong to the pastor of the place in which the sick person actually resides, even though the latter be not his parishioner. Other priests, whether secular or religious, even exempt, are not allowed to do the same except in case of necessity or with permission, whether express or at least presumed, of the pastor or of the Ordinary of the place. (Can. 848.)

But every priest may bring Holy Communion *privately*

to the sick, with the permission, at least presumed, of the priest who is the custodian of the Blessed Sacrament. (Can. 849.) This priest is the pastor, or the rector, or the religious superior, or the chaplain, according to the character of the sacred place, church or oratory, where the Blessed Sacrament is kept.

15. The right and duty to bring Holy Viaticum to the sick, whether publicly or privately, belongs to the pastor. Religious, though exempt, have no faculty, unless it is a case of necessity, or there is permission, at least presumed, of the pastor, or there is question of the persons who are excepted according to Canon 514. (Can. 850.) (See LAST SACRAMENTS, ¶ 1.)

V. FREQUENT COMMUNION

16. Superiors are obliged to promote among their subjects frequent and even daily Communion and to allow full freedom to those who with the right dispositions approach the Holy Table daily. They can forbid Holy Communion only in the case of those subjects who since their last sacramental confession have given grave scandal to the community or have committed a grave, external fault, and this prohibition lasts only until they approach the sacrament of Penance again. If, in the constitutions, Holy Communion is prescribed for certain days of the year, they are to be considered only as directive; they are neither strictly obligatory for the days appointed, nor exclusive of the other days. (Can. 595, §§ 2, 3, 4.)

43. HOLY SACRIFICE

I. *Admission to celebration of Mass.*

II. *Midnight Christmas Masses.*

III. *Place of celebration.*

IV. *Mass stipends.*

I. Admission to Celebration of Mass

1. When a religious wishes to celebrate Mass in a church other than his own, he must be allowed to celebrate the Holy Sacrifice on presentation of commendatory letters signed by his superior, unless it is certain that since the letters were given the bearer has done something on account of which he should not be permitted to say Mass. The letters, however, must be *valid,* and they are not valid if they have ever been revoked, or the time for which they were given has expired. (Can. 804, § 1.)

In case he is not provided with such letters, (*a*) if he is known by the rector of the church as a priest in good standing, he may be allowed to celebrate; (*b*) if he is unknown to the rector, he may be allowed to say Mass once or twice, provided he wears the ecclesiastical dress, (namely, the customary dress of clergymen in the place), that he does not draw from the celebration of the Holy Sacrifice in that church any emolument under any title and that he enters his name, office and diocese in a book kept for the purpose. (Can. 804, § 2.)

2. The Ordinary of the place may issue special regulations in this matter, without prejudice, however, to the enactments just mentioned, contained in §§ 1 and 2 of Canon 804. These regulations must be observed by all, even by exempt religious, except when there is question of allowing religious to say Mass in a church of their own institute. (Can. 804, § 3.)

The regulations would be to the prejudice of this canon, if they annulled whatever is prescribed by it or forbade what it allows. Those who must observe them are, of course, both the priests who wish to celebrate Mass and the rectors of the churches where the Mass is to be celebrated.

II. Midnight Christmas Masses

3. On Christmas night, in every religious house provided with an oratory where the Blessed Sacrament is legitimately kept, three Masses are allowed provided they are celebrated by the same priest; if this cannot be done, only one Mass is allowed. The celebrant may distribute Holy Communion to anyone who wishes to receive it, and all who are present fulfil the obligation of assisting at Mass on that day. (Can. 821.) Moreover, by virtue of special faculties received from the Holy See, the Ordinary of the place may allow the celebration of the Holy Sacrifice on Holy Thursday, with the understanding that all those who reside habitually in the community may receive the Holy Eucharist and thus fulfil the paschal precept.

III. Place of Celebration

4. As to the *place* where Mass may be said, the Holy Sacrifice may be celebrated:

(*a*) In *churches* and *oratories,* consecrated or blessed according to law. (Can. 822, § 1.) (See Consecrations and Blessings.)

(*b*) In *semi-public* oratories which have been duly established. (Cans. 822, § 1; 1196; 1193.)

(*c*) *In any becoming place,* except on the seas, and always on a consecrated stone, in the case of those who have the privilege of using a portable altar, either by law or apostolic indult. (Can. 822, §§ 2, 3.)

(*d*) In *private* or domestic oratories, exclusively reserved to divine worship, provided special permission has been granted by competent authorities. The competent authorities for allowing the celebration of Mass in private oratories and *elsewhere,* are, besides the Holy See, the Ordinary of the place and higher superiors in exempt institutes under the following conditions: The Ordinary of the place may allow the celebration of Mass: (*a*) in

chapels erected in cemeteries by families or private individuals for their burial places, *on any day and habitually* (Can. 1194); (*b*) in domestic oratories established with an apostolic indult, *on the solemn feast days* that are not mentioned in the indult (Can. 1195); (*c*) in other domestic oratories and *other* becoming *places,* provided Mass is said on a consecrated stone, the place is not a bedroom, and permission is granted for a just and reasonable cause, on extraordinary occasions and never permanently. (Cans. 822, § 4; 1194.) The faculty to grant the permission mentioned in the last place (*c*) is shared also by higher superiors of exempt religious, to the extent that, on the same conditions, they may allow Mass to be said outside a church and oratory, but only within the limits of their own exempt house. (Can. 822, § 4.)

IV. Mass Stipends

5. It belongs to the Ordinary of the place to determine the sum to which priests are entitled when they are requested by the faithful to say Mass for their intentions. Where there is no diocesan decree to this effect, the custom of the diocese must be observed. Religious, whether or not exempt, are obliged to conform to the decree or custom. (Can. 831.)

In the case of poor churches, Bishops may allow, in return for the use of the sacred vestments and the other articles which are necessary for Mass, a moderate sum to be demanded from priests who for their own convenience celebrate there the Holy Sacrifice. The Bishop's decree in this matter obliges all priests, and no one, whether secular or religious, even though exempt, is allowed to ask more. (Can. 1303, § 2.)

44. HONORARY TITLES

1. It is forbidden to religious to use titles that are *purely honorary*. Such are the titles of dignities and offices which a religious does not actually hold. Accordingly, the title of rector or pastor cannot be given to religious who are no longer in charge of these offices. An exception is made by the Code itself in favor of higher offices, by tolerating that those who have held one or the other of these offices, as that of abbot or provincial, may retain their former title in the same institute, if the constitutions allow it. (Can. 515.)

2. The law does not forbid the use of *academic titles,* as the title, doctor of law, master of theology or philosophy, etc., even though one is not actually engaged as a professor. These are not titles of *dignities* or *offices* properly so called; rather they bear testimony to the knowledge possessed by those to whom they are granted and signify their right to teach the corresponding branches. Nor does the law forbid the use of the various titles with which it is customary to address officials and dignitaries, as *Very Reverend, Most Reverend,* etc. These titles are not purely honorary; they form part of titles of offices and dignities actually possessed and are indicative of the reverence due to the respective incumbents.

45. HOUSE OF STUDIES

1. All clerical institutes must have *houses of studies* to be established with the approval of the general chapter or of superiors. (Can. 587, § 1.)

2. In the house of studies perfect common life must be observed, otherwise the students cannot be admitted to ordination. Accordingly superiors shall assign to it only those religious who by their care of religious observance

may be a source of edification to others. (Cans. 587, § 2; 554, § 3.)

3. It may happen that circumstances will not allow an institute or a province to have its own houses of studies, provided with all the necessary requirements, or that, in the judgment of superiors, it will be difficult for the students to go to that which they have. In such cases religious students should be sent to the house of studies of another province or of another institute, or be ordered to attend the classes of an episcopal seminary or a public Catholic institution. (Can. 587, § 3.) The law, it may be noticed, is not so worded as to forbid superiors to send some of their students to other ecclesiastical institutions for the sake of pursuing special courses, even though they are provided with well organized houses of studies of their own.

Religious who are thus sent to study are not allowed to live in private houses; they must reside in some other house of their institute, or, if this cannot be done, in some religious institute of men, or in a seminary, or in some other pious institution, which is directed by priests and has the approval of ecclesiastical authority. (Can. 587, § 4.)

4. During the whole course of studies the religious students must be entrusted to the special care of a spiritual prefect, who by suitable directions, instructions and exhortations must see that they receive proper training and formation in the religious life. (Can. 588, § 1.)

This spiritual director must possess the qualifications which are required in the master of novices. He must excel in prudence, charity, piety and religious observance. He should be thirty-five years of age and should have been professed at least ten years, dating from his first profession. Finally, he should be free from all offices and duties which might interfere with the spiritual direction of the students. (Cans. 588, § 2; 559, §§ 2, 3.) [1]

[1] Between Can. 588, § 2, and the reference to Can. 559, § 2, inserted in it, there seems to be a contradiction. Canon 588, § 2,

5. Superiors must watch with great diligence to see that everything which is prescribed for all religious in the matter of spiritual exercises and other pious practices is perfectly observed in the house of studies. (Can. 588, § 3.) (See PIOUS EXERCISES.)

6. In regard to the studies to which students must apply themselves, the Code requires first, that, before being engaged in the study of philosophy and theology, they have been well instructed in the lower classes. Moreover, the law requires at least two years of philosophy and at least four years of theology. The courses of philosophy and theology must be in keeping with the doctrine of St. Thomas as prescribed in Canon 1366, § 2 and must be regulated according to the instructions of the Apostolic See. (Can. 589, § 1.)

Canon 1366, § 2, prescribes that in all treatment of rational philosophy and theology, as well as in the formation of the students in these branches, professors conscientiously adhere to the Angelic Doctor's method, doctrine and principles.

The declarations issued by the S. Congregation of Religious, September 7, 1909, contained several rules concerning the *lower* studies and the studies of philosophy and theology, but, in using the term "instructions," the Code does not seem to refer to those declarations. It

---

enacts that the spiritual director of a house of studies must have the qualifications required in the *master* of novices, and Canon 559, § 2, specifies the qualifications of the *assistant* master of novices. According to Goyeneche (*Commentarium pro Religiosis,* I, p. 140), we must admit that in the reference to Canon 588, § 2 there is a misprint; instead of § 2, the reference should read § 1. Vermeersch-Creusen (*Epitome Juris Canonici,* I, n. 591) try to explain Canon 588, § 2, without the need of admitting a misprint in the reference. The explanation of Vermeersch-Creusen has its value, but the supposition of Goyeneche seems to us to be preferable and we have adopted it in our text — requiring the spiritual director to be thirty-five years of age and professed for ten years, as required of the master of novices, according to Canon 559, § 1.

more probably has reference to regulations which may have been issued for religious institutes in particular or to regulations which the Holy See may promulgate for all clerical institutes. In Canon 589, § 1 the Code enforces only the third of the rules embodied in the declarations of 1909 — that, namely, which is concerned with the necessity of four complete years of theology. (See footnote 5 to Canon 589, § 1, in which, besides article III of these declarations, a subsequent decree of May 31, 1910, is quoted. According to this latter decree, the four years of theology must comprise forty-five months, including three months of vacation for each of the first three years.)

7. Superiors are warned not to engage teachers and students in offices which may take them away from their studies or in any way interfere with class work. In fact the superior general, and, in particular cases, other superiors also, may in their judgment exempt them from some common exercise, even from the choir, especially during night hours, whenever this seems to be necessary in order that studies may be properly pursued. (Can. 589, § 2.)

46. INDULGENCES

1. When new indulgences are granted to churches, whether belonging to seculars, or to religious, even though exempt, they cannot be promulgated without the knowledge of the Ordinary of the place, unless they have been already promulgated in Rome. (Can. 919, § 1.) According to the present practice of the Holy See, they are promulgated in Rome when they are published in the official periodical called *Acta Apostolicae Sedis*.

2. Moreover, seculars and religious, even though exempt, need the permission of the Ordinary of the place for publishing books *on* indulgences or writings, in any form, as summaries, pamphlets, leaflets, in which *concessions* of indulgences are *contained*. (Cans. 919, § 2; 1388, § 1.)

47. INDULTS, DIOCESAN

Ordinaries are in many cases empowered by the Apostolic See to grant *indults,* by which the faithful are dispensed from some general law of the Church. For certain cases this power is given permanently to the Ordinaries by the law, for other cases it is given to them temporarily by pontifical rescript, as necessity may require. These indults may have reference, for example, to the laws of fasting, of abstinence or other universal ecclesiastical laws. No matter what the immediate source of the Ordinary's power is, no matter to what law the indult has reference, Canon 620 decrees that " when the Ordinary of the place has lawfully granted an indult, the obligation of the universal law ceases for all religious who reside in the diocese." Hence also *exempt* religious may avail themselves of the indult. The only exception made by the Code is expressed in the words: " without prejudice to the vows and particular constitutions of every institute." If, for instance, on a certain day fasting is prescribed by the universal law of the Church and in a given institute it is, moreover, obligatory by virtue of a *vow,* or by its *constitutions,* the indult granted by the Ordinary of the place does not free a religious from the obligation arising from the vow, or the constitutions.

48. JUDICIAL POWER

1. The *judicial power* to settle controversies in which one or both parties are *religious* rests first with the Apostolic See. Ordinarily, however, the Holy See does not exercise this power, except in cases of appeal and leaves the administration of justice to the lower courts, which in the Church are competent in cases of religious.

2. In cases in which religious act as complainants, or plaintiffs, they must have recourse to the judges, to whom

the defendant is subject, according to the rule: *actor sequitur forum rei;* that is, the plaintiff follows the court of the defendant.

3. In cases in which religious appear as defendants, in general, as is explained in the article on PRIVILEGES, they cannot be brought before a *civil* court without permission from the competent ecclesiastical authority. (See PRIVILEGES, ¶ 10.) Their cases must be dealt with and decided in one of the *ecclesiastical* courts which are competent in the matter, in keeping with the following rules:

4. When there is question of controversies of *exempt, moral* persons who have no superior over them but the Roman Pontiff, such as an exempt religious institute or a monastic congregation, the sole competent judge is the Apostolic See. (Can. 1557, § 2, n. 2.)

5. The competent judge of controversies of *exempt* religious who are members of the *same clerical* institute is the provincial, or, if the exempt religious are members of a monastic congregation, the local abbot. (Can. 1579, § 1.)

6. When there is question of two provinces or of two independent monasteries (belonging to the same exempt clerical institute) the competent judge is the superior general, or the highest superior of the monastic congregation, respectively. (Can. 1579, § 2.)

7. In other cases whether *both* contending parties are *religious* or one of them is a *secular cleric,* or a *lay person,* the competent judge is the Ordinary of the place where the religious resides, even though he is exempt. (Can. 1579, § 3.)

8. As to the judges to whom *appeals* may be taken:

(*a*) In controversies *between exempt religious,* the competent judge is the superior general or the highest superior of the monastic congregation, according as the case was first tried before the provincial or before the local abbot. (Can. 1594, § 4.)

(*b*) The competent judge of cases of appeal which were

tried first before the superior general or before the highest superior of the monastic congregation, is the Apostolic See.

(*c*) As to the cases which were first tried before the Ordinary of the place:

(i) If the Ordinary of the place is a Suffragan Bishop, the competent judge is his Metropolitan.

(ii) If the Ordinary of the place is, himself, a Metropolitan, the competent judge is that Metropolitan whom, once for all, he has chosen with the approval of the Holy See.

(iii) If the Ordinary of the place is an Archbishop who has no Suffragan Bishops, or a Bishop who is immediately subject to the Holy See, the competent judge is the Metropolitan whom he has chosen in conformity with the contents of Canon 285. (Can. 1594, §§ 1, 2, 3, 4.)

49. LAST SACRAMENTS

I. *In clerical institutes.*

II. *In lay institutes.*

III. *Administration to others.*

In regard to the administration of the last sacraments — *Holy Viaticum* and *Extreme Unction* — a distinction has to be made between clerical and lay institutes.

I. In Clerical Institutes

1. In every clerical institute, even though it is not exempt, superiors have the right and the obligation to administer Holy Viaticum and Extreme Unction (*a*) to the members of their community, whether these are professed or novices; and (*b*) to the following classes of persons: workmen, pupils, boarders and patients, who reside in the same religious house day and night. (Can. 514, § 1.) Because of the last mentioned clause, the power of a superior does not extend to those who remain in the religious

house during the day and go home in the evening, for example, day scholars. On the other hand, for the exercise of this power it is not necessary that the residence be *permanent;* a temporary residence, probably even of only one full day, is sufficient.

II. In Lay Institutes

2. In a house of nuns the same right and duty belongs to the ordinary confessor or to him who takes his place. (Can. 514, § 2.) The priest who is referred to in the canon in the words " who takes his place " is he who acts as ordinary confessor of the community while the regular ordinary confessor is ill or absent.

3. In other lay institutes, whether of men or of women, this right and duty rests with the pastor of the place where the religious house is located except in the case in which the Bishop has exempted the religious house from the jurisdiction of the pastor and has placed it under the jurisdiction of the chaplain. In this case this right and duty belongs to the chaplain. (Cans. 514, § 3; 464, § 2.)

III. Administration to Others

4. In the case of other persons besides those mentioned in the preceding paragraphs, the administration of these sacraments belongs to the pastor of the place where the sick person lives (whether permanently or temporarily), except when the latter is the Bishop. In this case, in dioceses which are provided with chapters of canons, Canon 397, n. 3, must be followed. Moreover, the law allows other priests, besides the pastor, to administer these sacraments, both in cases of necessity; when, for instance, the pastor is not at hand, and when a priest has permission, either expressed or presumed, from the pastor or from the Ordinary of the place. (Cans. 850, 848, 938.)

50. LAY INSTITUTE

A *lay institute* is one in which none, or only a few of its members are raised to the priesthood. (Can. 488, n. 4.) (See CLERICAL INSTITUTE.)

51. LEAVING

1. The *leaving* of a religious institute may happen in different ways. Religious may leave *of their own accord* or because they are *compelled* to do so by the proper authorities. Again, when leaving of their own accord, they may do so *in a lawful* or *unlawful* manner. Finally, leaving in a lawful manner, they may leave an institute *without joining another,* or they may *change* from one to another institute. In this article we treat the cases of religious who leave *of their own accord, lawfully, without passing to another institute.* The other cases are treated in articles on DISMISSAL; APOSTATES AND FUGITIVES; CHANGE OF INSTITUTE.

The various enactments of the law on this point may be grouped under the following headings:

I. *Indult necessary for leaving.*

II. *Status of religious after leaving.*

III. *Diocese of ex-religious in sacred orders.*

IV. *Offices forbidden to clerics.*

V. *Compensation for past services.*

I. INDULT NECESSARY FOR LEAVING

2. It is evident that those who have taken only *temporary* vows, once their vows have expired, do not need any permission or indult for leaving. (Can. 637.) Their vows may have been *temporary,* either because the congregation

in which they made their profession admits its members only to temporary vows, to be renewed at stated times, or because they made only the temporary profession which must precede the perpetual profession in institutes which admit their members to perpetual vows. (See PROFESSION, RELIGIOUS, ¶¶ 2, 10, 16.) In either case, when their religious vows expire, they are no longer bound by them and are free to return to the world.

3. Those, however, who wish to leave after they have made their perpetual profession, or after having made only a temporary profession but before their temporary vows have expired, need a special permission for doing so. Whose permission is required? Canon 638 answers as follows: "The indult of remaining outside the cloister, either temporarily or permanently, may be given only by the Apostolic See in the case of pontifical institutes; and by the Ordinary of the place in the case of diocesan institutes." This same canon calls the indult of leaving *temporarily, indultum exclaustrationis;* that is, a permission to remain *outside the cloister,* and the indult of leaving *permanently, indultum saecularizationis;* that is, a permission to be *secularized,* or to live after the manner of *seculars,* in contradistinction to *religious.* The indult of secularization is given to religious who leave *with no intention of returning to their institute,* whether they took perpetual vows or merely temporary vows, and now wish to return to the world permanently before their temporary profession expires. The indult *exclaustrationis* is given to those who wish to abandon community life only for a time, with the intention of returning to their institute when the period of the indult expires, unless they renew their indult or obtain the indult of secularization. This *temporary leaving,* called by the Code *exclaustratio,* suspends for the time being the dependence of subjects on their religious superiors and, consequently, should not be confused with the mere *residing outside the religious house,* which does not

suspend the subjection to the superiors of the institute. The former cannot take effect without a special indult of the Holy See or of the Ordinary of the place according to Canon 638; for the latter the permission of the religious superiors is sufficient, provided these do not exceed the limits set down in Canon 606. (See ENCLOSURE, ¶ 20.)

4. Both the indult for *leaving* the institute *temporarily* (*exclaustratio*) and the indult of *secularization* (*saecularizatio*) may be given by the Ordinary of the place in the case of *diocesan* institutes, whether there is question of *men* or of *women*. Canon 638 does not distinguish, and no sufficient reason can be drawn from the context of the law for restricting the power of the Ordinary of the place to institutes of *men*.

II. STATUS OF RELIGIOUS AFTER LEAVING

5. Religious who have obtained the indult *exclaustrationis* from the Apostolic See (*a*) are bound by their vows and other religious obligations, in so far as these are compatible with the life they have to lead in the world. Thus, for example, while they are bound by the vow of poverty, they are allowed to procure for themselves the necessary means of support. Their constitutions may require that they devote a certain amount of time to prayer or perform certain penances, but they are not obliged to abide by such regulations if they judge that these observances interfere with the duties of their present life.

(*b*) They must lay aside what is outwardly visible of the religious habit.

(*c*) They have no active or passive voice in the institute as long as the indult lasts.

(*d*) They enjoy the spiritual privileges of their institute, as for instance, indulgences.

(*e*) They are subject to the Ordinary of the place where they reside and must obey him instead of their religious superiors, by virtue of their vow of obedience. (Can. 639.)

6. The enactments contained in this Canon 639 *expressly* affect only those religious who have obtained the indult *exclaustrationis from the Holy See.* The status of those religious of diocesan institutes who have obtained a like indult from the *Ordinary of the place* is regulated by the same enactments, except that in their case the Ordinary may, for special reasons, allow them to retain their religious habit. (Pontifical Commission on the Code, November 12, 1922. *Acta Apostolicae Sedis,* XIV, 662.)

7. Religious who have obtained the indult of *secularization:*

(1) (*a*) Are no longer members of their institute.

(*b*) Must lay aside what is outwardly visible of their religious habit.

(*c*) In celebrating Mass, reciting the Holy Office, receiving or administering the sacraments, they must follow the laws that govern these various acts when performed by seculars. (Can. 640, § 1, n. 1.)

8. (2) (*a*) They are freed from their vows, with the exception, for those in major orders, of the vow of chastity.

(*b*) They are not bound to say the Divine Office by virtue of their profession (although they are bound to say it if they are in major orders), nor are they obliged by the other rules and constitutions. (Can. 640, § 1, n. 2.)

9. If by virtue of an *apostolic indult* they are allowed to be readmitted to the institute, they must repeat their novitiate, make their profession again, and their seniority will date from the day of their new profession. (Can. 640, § 2.) This is required, since by the indult of secularization they have altogether ceased to be religious and now they are in the condition of seculars who wish to enter the religious state. On the other hand they cannot make a new novitiate and profession without having obtained an Apostolic indult because Canon 542, n. 1, excludes from the novitiate those who have previously been bound by a religious profession. (See NOVITIATE, ¶ 5.)

Their perpetual profession, moreover, must be preceded by a temporary profession according to Canon 574. (See PROFESSION, RELIGIOUS, ¶ 10.)

III. DIOCESE OF EX-RELIGIOUS IN SACRED ORDERS

10. The Code does not consider the case of those who have obtained only the indult *exclaustrationis* because these are still affiliated with their institute. It provides, however, for the case of those who leave on the expiration of their temporary profession and of those who have obtained the indult of *secularization*. As all these are no longer members of their institute, and the Church is opposed to having clerics who belong to neither a religious institute nor to a diocese (Can. 111), it was necessary to lay down rules governing the status of these ex-religious on this point.

In establishing these rules in Canon 641, § 1, the Code distinguishes between two classes; namely, those who, though religious, still retain their incorporation in a diocese, and those who have lost it. To the former class belong those who have not yet taken perpetual vows; the latter class embraces all those who have made their perpetual profession. (Can. 585.)

11. Religious who have not lost their incorporation in a diocese, whether they leave without indult on the expiration of their temporary vows, or, with the necessary indult, they leave before their temporary vows expire, must return to their Ordinary; he must accept them. (Can. 641, § 1.)

12. Religious who have lost their diocese because they have taken perpetual vows, are not allowed to exercise sacred orders outside their religious institute, unless they find a Bishop who is willing to receive them into his diocese, or the Apostolic See has made special provision for their case. (Can. 641, § 1.) According to Canon 641, secularized religious who have lost their diocese are forbidden to exercise the sacred ministry outside their *religious institute*. Strictly speaking, once they have accepted

the indult of secularization, they are outside their religious institute, even though they do not go to live outside the cloister. Taking into consideration, however, the preceding law on this point, we may probably interpret that clause more broadly, so that if they remain in the religious house while they are in search of a Bishop willing to accept them, they are not forbidden to exercise sacred orders during that time.

A Bishop who is willing to accept a secularized religious may do so in two ways; namely, either without restriction or on a three year trial. In the former case, the religious is *ipso facto* incardinated in the diocese. In the latter case, the Bishop may still prolong the experiment, but not beyond three additional years. During the first or the second of these periods the Bishop may dismiss him, but unless he has done so before the expiration of the second term, the cleric remains incardinated *ipso facto*. (Can. 641, § 2.)

IV. Offices Forbidden to Clerics

13. Every professed who has returned to the world may, indeed, exercise the sacred ministry according to the terms of Canon 641 (as explained in the preceding paragraphs), but, without a new and special indult of the Holy See, he is debarred from the following:

(*a*) Benefices of any kind in basilicas, whether major or minor, as well as in cathedral churches.

(*b*) Any professorial chair or office in major as well as in minor seminaries or colleges in which clerics are educated, and also in such universities and institutions which have the privilege of conferring academic degrees.

(*c*) Any office or charge in episcopal courts and in religious houses of men or women, whether pontifical or diocesan. (Can. 642, § 1.)

14. These prohibitions affect also those who have pronounced only temporary vows or have taken an oath of perseverance or have bound themselves by special promises

according to their constitutions and (*a*) have been dispensed from them (*b*) after having lived under these obligations for six full years or longer. (Can. 642, § 2.)

15. Considering the contents of this canon in the context, and comparing the first with the second section, it may be said that religious who fall under these prohibitions are those who (1) being in sacred orders; (2) leave (*a*) not on the *expiration* of their vows, or other similar obligations, but (*b*) by virtue of an indult or a dispensation, provided, in the case of those who were bound only by temporary engagements, they have lived under these for at least six years. Some authors seem to exclude from these prohibitions those religious who have obtained only the indult *exclaustrationis,* but the wording of the law *quilibet professus ad saeculum regressus* and the terms and object of the preceding legislation contained in the decree of the S. Congregation of Religious, June 15, 1909 (*Acta Apostolicae Sedis,* I, 523), rather favor the opposite view.

16. By virtue, then, of this canon, the ex-religious just mentioned are not allowed to receive benefices, properly so called, that are established in a basilica or a cathedral church. They cannot be employed as teachers or officials in seminaries or in ecclesiastical colleges such as are described in the canon, even though the latter do not bear the name of seminaries, or in universities or institutions, when there is question of those universities or institutions that enjoy the apostolic privilege of granting academic degrees. Finally, they cannot hold the office of vicar general, chancellor, synodal examiner, notary, etc., in an episcopal court, or the office of ecclesiastical superior, visitor, confessor, chaplain, in a religious institute, pontifical or diocesan.

17. According to an answer of the Pontifical Commission on the Code, dated Nov. 24, 1920 (*Acta Apostolicae Sedis,* XII, 575), the enactments of Canon 642, forbidding ex-religious *to obtain* certain benefices and offices, affect also those religious who left before the promulgation of

the Code. According, then, to this declaration, religious who left before the promulgation of the Code *fall under the prohibitions of this canon,* and consequently cannot *obtain* new benefices and offices *since the Code went into effect.* But neither the canon nor the authentic interpretation contained in this answer forbids ex-religious *to retain* benefices and offices which they may *lawfully* have *obtained before* the promulgation of the Code. (Can. 4.)

V. Compensation for Past Services

18. Those who left an institute on the expiration of their vows, or by virtue of an indult of secularization (or in consequence of a decree of dismissal) cannot claim any compensation for any work that they may have done on behalf of their institute. (Can. 643, § 1.)

19. If, however, a nun or a sister was received without a dowry, and now she has no means of her own for supporting herself, the institute must, in charity, provide for her as follows: It must supply her with what she needs for returning home safely and becomingly. Moreover, it must provide her, as natural equity may require, with the means of an honest livelihood for a certain period of time. This time has to be determined by mutual agreement and, in the case of disagreement, it has to be determined by the Ordinary of the place. (Can. 643, § 2.)

52. LEGISLATIVE POWER

By virtue of their *domestic power* religious superiors cannot make *laws,* but they can enforce religious observance by imposing precepts in virtue of holy obedience, and issue general orders in conformity with the constitutions.

The power of making *laws* requires *jurisdiction* and belongs to exempt clerical institutes, but more commonly it resides only in the general chapter. (See Superiors, ¶¶ 5, 6.)

53. LETTERS

1. It is a quite common practice among religious institutes to keep correspondence open to the inspection of superiors; this practice extends to letters both written by and sent to the religious. The faithful observance of this practice entails no little sacrifice on the part of religious subjects, but its usefulness cannot be questioned. The mere fact that the mail must be handled in such a manner that superiors may easily examine it, makes subjects more cautious about what they write, forestalls acts of imprudence and, in cases of necessity, affords superiors the opportunity of checking abuses at their very outset. On the other hand, superiors should not take advantage of their position and act merely for the sake of satisfying their own curiosity. This is true especially when there is question of mail that comes to their subjects from their near relatives or of letters that are marked *confidential* or *private*. In any case, the same common good which may have given rise to this practice requires that religious may correspond freely with those to whom the higher government of the institute is entrusted.

2. Accordingly, Canon 611 enacts that all religious, whether men or women, may send letters, *in no way subject to inspection,* to the following: (*a*) the Holy See (that is, chiefly the S. Congregation of Religious); (*b*) its Legate (such as the Apostolic Delegate in our country); (*c*) the Cardinal Protector; (*d*) the higher superiors; (*e*) the local superior when absent; (*f*) the Ordinary of the place to whom a religious institute is subject; and (*g*) in the case of those nuns who are subject to regulars, also the higher superiors of the order. (See EXEMPTION, ¶¶ 6–7.) Likewise, all religious, whether men or women, may receive from all the above enumerated superiors letters which are in no way subject to inspection.

3. According, then, to Canon 611, religious have the

right to correspond with any of these superiors so that this correspondence is free from all inspection.

4. By virtue of this canon, the members of *diocesan* institutes may freely correspond with the Ordinary of the place, because they are entirely subject to him according to law. (Can. 492, § 2.) Members of *pontifical* institutes may also correspond freely with the Ordinary on matters in which they are subject to him, as, for example, the appointment of ordinary and extraordinary confessors for communities of women, the observance of enclosure, the investment of dowries, etc. (See ORDINARY OF THE PLACE; EXEMPTION.)

54. MANIFESTATION OF CONSCIENCE

1. According to the definition given by Suarez (*De Religione,* Tract. X, lib. x, c. 6, n. 2), the *manifestation of conscience* is the account which one gives to one's spiritual director for the sake of being intimately known by him, not only as to the fulfilment of moral obligations, but also as to one's affections and inclinations.

2. All ascetical writers agree on the need of a spiritual director to guide those who are desirous of acquiring Christian perfection, whether they are religious or seculars. The laws of the Church and the rules and constitutions of every religious institute make known to religious, to a large extent, what is required of them for becoming perfect, but they do not provide for hundreds of contingencies in which the individual may find himself. The internal graces with which God favors all, especially His own, are also of great assistance to Christians in following the path of perfection, but God allows souls to be subject also to internal movements caused by the evil one, as well as to internal suggestions, more or less natural, whether these be the effect of our corrupt nature or the result of imagination. It is not always easy to decide whether the

motions of the soul are due to the good spirit, or to the evil one, or to purely natural phenomena. Hence the great usefulness, not to say need, of opening one's conscience to an experienced adviser on whom one may rely for counsel and direction.

3. In keeping with the definition given above and the remarks just added, to manifest one's conscience implies making known to a director the indeliberate movements of the soul, as well as the actions for which one is responsible, whether these are acts of virtue, sins or imperfections. It belongs to the manifestation of conscience to discover the temptations to which one is subjected, with the ensuing victories or defeats; the state of consolation or desolation; fervor or aridity in prayer; the desire of advancing in perfection or sloth in corresponding to divine grace.

4. Owing to the intimate relations which naturally exist between religious superiors and their subjects, the constitutions of several institutes, both clerical and lay, prescribed or recommended that this manifestation should be made by religious to their superiors, for the chief purpose of promoting the spiritual advancement of the individuals, and also with a view of providing for the welfare of the community, as far as this secondary object could be obtained without violating the secret by which this practice was always to be protected.

5. But gradually abuses crept in and they grew to such an extent that by a decree of the S. Congregation of Bishops and Regulars, dated December 17, 1890, the Holy See forbade superiors of *lay* institutes to exact from their subjects this manifestation. Superiors of *clerical* institutes were not included in the prohibition contained in the decree of 1890, but today they are included in the prohibition embodied in Canon 530. It was not the purpose of the law to do away with this practice altogether, but only to free it from the inconveniences which happened to in-

terfere with the salutary effects for which it was originally intended. This purpose was accomplished by decreeing that subjects *should not be obliged* to have recourse for direction and to confide the secrets of their conscience to the same person who by virtue of his office has the right and duty to direct them in their external relations to the community. Canon 530 reads as follows: "All religious superiors are strictly forbidden to induce their subjects, in any way, to make the manifestation of their conscience to them." (§ 1.) "Their subjects, however, are not forbidden to open their mind to their superiors freely and spontaneously; in fact, it is advisable that they approach their superiors with filial confidence, proposing to them also their doubts and anxieties, if the superiors be priests." (§ 2.)

6. This canon includes in its prohibition *all religious superiors,* without distinction. *Higher* and *lower* superiors are forbidden; superiors of a *pontifical* or of a *diocesan* institute; *lay* or *clerical.* As to the *master* and the *mistress of novices,* it is quite common among authors to hold that they are not included in this prohibition, unless, in some extraordinary case, besides being in charge of the novices, they are also superiors of the house. They argue that this law forbids *superiors;* and technically the *master* and the *mistress of novices,* as such, *are not superiors.* There are not wanting, however, authors, who, though admitting that these officials do not fall under the *letter* of the law, maintain that novices cannot be obliged to manifest their conscience to them for the sake of direction. They argue that the *inconveniences* of obliging subjects to depend on the *same person* in matters of the *internal* and the *external* forums are hardly less apt to take place in the case of these officials than in the case of superiors. They notice, moreover, that the spirit of the present legislation, tending to keep these two forums separate even in the person of the master of novices, is clear from Canon 891, which

forbids the master of novices to hear the confessions of those under their care, unless the latter have recourse to them, of their own accord, for a grave and urgent reason, and in particular cases. (Voltas, in *Commentarium pro Religiosis,* I, 148–151.)

7. The law forbids superiors to induce their *subjects.* Accordingly superiors cannot exact this manifestation from any professed, novices or postulants under their care.

8. The subject matter of the prohibition is the manifestation of *conscience;* that is, of the *soul,* as explained above. Accordingly, superiors cannot ask their subjects to reveal to them those faults which are altogether *internal.* As to faults against religious discipline, authors admit that superiors may question their subjects about their *external* observance of the constitutions, without, however, inquiring about their internal dispositions and affections which may have been the cause of their defects and may have made them more or less responsible before God. Moreover, superiors are not forbidden to inquire about what, though not public or external, does not exactly belong to the domain of *conscience.* Thus superiors may ask their subjects whether they know how to make their meditation and their particular examen, or whether they find special difficulties in their studies. These and similar questions do not touch the moral state of the soul. But they may not make further inquiries by asking whether they make all necessary effort for praying and meditating well or whether they take the proper care for choosing a suitable subject for their examen. To reveal these points is to reveal, in some measure, how far one corresponds to divine grace. Again, when superiors see that subjects look sad or depressed, they may ask whether there is anything in their surroundings which displeases them. But they could not go further by trying to find out whether their sadness and depression are due to their tepidity or lack of sufficient energy in the service of God.

9. Superiors are forbidden to induce their subjects *in any way;* that is, they must abstain from using any moral influence tending *directly* or *indirectly* to elicit this manifestation. They would use moral influence *directly,* by commanding or requesting their subjects to open their conscience to them; *indirectly,* for instance, by highly praising those who of their own accord use this means of perfection and condemning at the same time the others who act otherwise. On the other hand, superiors are not forbidden to explain in their conferences to their community the advantage of this practice freely undertaken, but simply by way of instructing their subjects, without showing that they are displeased with those who abstain from it.

10. Superiors are *strictly* forbidden. This obligation is a *grave* one, and to act against it constitutes a mortal sin, except in cases in which it is certain that the influence is slight in matter or manner. Thus, it may not exceed a venial sin to inquire, on some rare occasion, about matters, which a subject has no great repugnance in revealing.

11. Again, superiors are forbidden to induce their subjects to make this manifestation *to them;* that is, to the *superiors themselves.* But they are not forbidden to advise, or even to urge them, to make their manifestation to their spiritual director or confessor, especially if this practice is recommended by the constitutions.

12. Finally, from the wording of the prohibition contained in § 1 of this canon, compared with the contents of § 2, it is clear, that, as it was remarked above, what the law condemns is only the practice, on the part of *superiors,* to influence their subjects to open their conscience to them, but it does in no way condemn the practice, on the part of their *subjects,* to open their soul to their superiors, of their own accord. Number 2 has three clauses. The first contains a general declaration that subjects are not forbidden to open their mind to their superiors freely and spontaneously. The second embodies a further declaration,

in the sense that, far from being forbidden, it is advisable that subjects should go to their superiors with filial confidence. But this second statement is somewhat restricted by the third clause. According to this third and last clause, to open one's conscience to superiors, *to the extent of proposing to them doubts and anxieties* is advisable *when the superiors are priests.* By emphasizing the circumstance that to propose doubts and anxieties to superiors is advisable *if they are priests,* the Code implies tacitly that, as a general rule, to open one's conscience to superiors to the extent of proposing these difficulties is not advisable, if they are not priests. Briefly, then, religious are in no case forbidden to open their soul to their superiors. Moreover, they are advised to do so. But they are not advised to propose to them doubts and anxieties, unless their superiors be priests. Whenever there is question of conscience doubts and anxieties, it is more advisable to have recourse to a priest, ordinarily to one's confessor or director, who is supposed to be better acquainted with theological questions which may be involved in such cases.

55. MASTER AND MISTRESS OF NOVICES

(See Terminology)

I. *Appointment.*

II. *Assistant master.*

III. *Rights and duties.*

I. Appointment

1. The *master of novices* is the official charged with the training of novices. He must have completed at least his thirty-fifth year, and must have had religious vows for at least ten years from his first profession. He must excel

in prudence, charity and piety, as well as in religious observance. In a clerical institute he must be a priest. (Can. 559, § 1.)

2. He shall be appointed in the manner described in the constitutions; and if these prescribe how long he is to remain in office (*a*) he cannot be removed before his term is over, unless for a just and grave reason; but (*b*) he may be reappointed. (Can. 560.) As the law makes no distinction, he may be reappointed more than once and for consecutive periods.

II. Assistant Master

3. If, on account of the number of novices, or for some other just reason it be found expedient, the master of novices shall have a companion or assistant, directly subordinate to him in the government of the novitiate. This assistant must be at least thirty years of age, must be professed at least five years since his first profession, and should not be lacking any other necessary or suitable qualification. (Can. 559, § 2.) In regard to the manner of his appointment, duration in office, removal and reappointment, the Code applies to him the same rules which it lays down for the master of novices. (Can. 560.)

III. Rights and Duties

4. The right and the duty to attend to the training of novices belong exclusively to the master, and to him alone belongs the government of the novitiate, so that no one else may, under any pretext, interfere, with the exception (*a*) of the superiors who are permitted to do so by the constitutions and (*b*) of the officials who act as visitors. On the other hand, in regard to the discipline of the whole house; for example, the community exercises, the master, as well as the novices, depends on the superior. (Can. 561, § 1.) The novices are, in their turn, subject to the

master and the religious superior, and are obliged to obey them (Can. 561, § 2), though not by virtue of a vow.

5. The master of novices is under the serious obligation of taking all possible care that his subjects be assiduously exercised in the practice of religious discipline according to the constitutions. (Can. 562.) In order that he may discharge his office properly he must be free from any employment and duty which might interfere with the care and direction of the novices; and the same enactment holds for his assistant. (Can. 559, § 3.) Moreover, both he and his assistant must abstain from hearing the confessions of their subjects, unless in particular cases, for some grave and urgent reason, the novices themselves freely have recourse to them. (Can. 891.)

6. In keeping, then, with the character of his office and the object of probation, the master shall see that the year of novitiate is spent by novices in the study of the rules and constitutions; in pious meditation and constant prayer; in learning what appertains to the vows and virtues; in exercises that are fitted for uprooting the very germs of vice, mastering the emotions of the soul and acquiring virtue. (Can. 565, § 1.)

7. Moreover, the lay members (lay brothers and lay sisters, respectively) must be carefully instructed in Christian doctrine, and for this purpose a special conference must be given, at least once a week. (Can. 565, § 2.)

8. During the canonical year (that is, the year prescribed by universal law) the novices must not be employed in preaching, hearing confessions or in performing the external works of the institute. (Can. 565, § 3.) This prohibition is not limited to works done outside the house; hence the novices are debarred, in general, from these works, altogether, during the canonical year.

9. Moreover, novices must not devote themselves, of set purpose, to the study of literature, the sciences or the arts. (Can. 565, § 3.) The law does not forbid these

studies absolutely, but only if taken up as a serious duty. Judging from the wording of the law and from a decree of the S. Congregation of Religious to which reference is made in a footnote to this canon, it does not seem to be contrary to the law to give the novices an hour of study every week-day, with a review, two or three times a week. This practice has for its object not so much the acquisition of new knowledge, as the retention of knowledge previously acquired. Moreover, it affords superiors the opportunity of testing the talents and diligence of their subjects. Accordingly, the subject matter of the studies should be in keeping with the character and nature of each institute. (S. Congregation of Religious, August 27, 1910. *Acta Apostolicae Sedis,* II, 730.)

10. In regard to lay members, these may be employed within the precincts of the religious house, in works which belong to their class (not, however, in the capacity of officials) provided they are not thereby prevented from applying themselves to the exercises which are set apart for them in the novitiate. (Can. 565, § 3.)

11. The Code does not prescribe anything definite for the second year of the novitiate in the case of institutes in which the novitiate lasts two years. But the S. Congregation of Religious by a decree dated November 3, 1921 (*Acta Ap. Sed.,* XIII, 539), issued the following enactments:

(*a*) During the second year also, care should be taken, *above all,* of the training of the novices in the spiritual life.

(*b*) If the constitutions allow, the novices may be employed in the works of the institute, but always in a subordinate position, under the direction and vigilance of some experienced religious.

(*c*) If the constitutions allow novices to be employed in the works of the institute *outside the house of the novitiate,* this may be done, but only by way of exception, in order to give the novices the necessary training which they could not receive at home, and never for the sake of the

institute itself by filling, through the novices, positions for which the institute lacks subjects.

(*d*) During the last two months the novices must abstain from all external works and, if they have been away from the house of the novitiate, they must be recalled to it, to prepare themselves for their profession.

12. During the novitiate the master must give an account of each novice to the chapter or to the higher superior, as the constitutions may prescribe. (Can. 563.) It is, then, left to the constitutions to define, in particular, the manner of drawing up this account and the person (the chapter or the higher superior) to whom it shall be given.

56. MENDICANT ORDERS

Originally the term *mendicant* applied to orders that by profession had to live on *alms* or on the fruit of their own work. They practiced religious poverty so rigorously that not only the *individual members* of the institute, but even the *communities* were incapable of possessing fixed revenues. Notwithstanding their original institution, the Council of Trent, Session XXV, *de Regularibus,* chapter 3, allowed all mendicant orders, with the exception of the Friars Minor of the Observance, and the Capuchins, to possess fixed revenues. Thus the mendicant orders were divided, as they are still divided, in two classes: the *strictly* mendicant, such as the Capuchins and the Friars Minor, who adhere to the original rule, and the *broadly* mendicant, such as the Order of Friars Preachers and the Servants of Mary, who have availed themselves of the Tridentine faculty or some other previous concession. (Can. 621, Pontifical Commission on the Code, Oct. 16, 1919, n. 10, *Acta Apostolicae Sedis,* XI, 478.)

The *Annuario Pontificio* (a Roman official publication) for the year 1922 gives the following list of Mendicant Orders, whether strictly or broadly so called:

1. Friars Preachers (Dominicans).
2. Franciscans:
   - Friars Minor.
   - Friars Minor Conventuals.
   - Friars Minor Capuchins.
   - Third Regular Order of St. Francis.
3. Augustinians:
   - Hermits of St. Augustine.
   - Hermits Recollects of St. Augustine.
   - Discalced Hermits of St. Augustine.
4. Carmelites:
   - Carmelites of the Ancient Observance.
   - Discalced Carmelites.
5. Discalced Trinitarians.
6. Mercederians.
7. Servants of Mary.
8. Minims.
9. Hermits of St. Jerome.
10. Hospitallers of St. John of God.
11. Order of Penance.

57. MILITARY ORDERS, RELIGIOUS

Religious *military orders* were bodies of knights organized for the defence of Church and State, whose members took vows and shared in the immunities of other regular orders. Such were, for example, the Knights Templars, the Order of Christ, the Hospitallers of St. John of Jerusalem. However, in the course of time, some of them changed their form of organization, some have ceased to exist altogether as corporate bodies or are represented by men who bear only the name of the ancient order as an honorary title. In general, they have lost their *religious* character in defect of religious vows, and are no longer classed with the regular orders of the Church.

58. MISSIONARIES

1. Religious who are sent to missionary countries, whether these be vicariates or prefectures apostolic, are subject to the Vicar or Prefect Apostolic, respectively, in those things in which religious fall under the jurisdiction of the Ordinary of the place, unless an exception be proved. (See ORDINARY OF THE PLACE.) Moreover, they must observe the special enactments which govern the relations of missionaries to Vicars and Prefects Apostolic, as may be seen in the following:

2. At the request of the Vicar or Prefect Apostolic, they must show the letters which they have received from their superiors or from the S. Congregation of Propaganda Fide, and must ask the Vicar or Prefect for the faculty to exercise the sacred ministry. (Can. 295.)

3. Moreover, all, even regulars, are subject to the jurisdiction, visitation and correction of the Vicar or Prefect in all things which pertain to the government of the missions and the management of the works connected with them. If, in such matters, a conflict arises between the order of the Vicar or Prefect and the order which their religious superior may have given, the order of the former must prevail, without prejudice, however, to the observance of particular statutes that the Apostolic See may have approved and to the right which the superior has to appeal to the Holy See, but pending this appeal (*recursus*) the decree of the Vicar or Prefect must be obeyed. On the other hand, in matters of religious discipline, religious are not subject to the Vicar or Prefect except in the cases expressly mentioned in the law. (Can. 296.)

4. If there is not a sufficient number of priests available from the secular clergy to supply the wants of the mission, Vicars and Prefects Apostolic, after having consulted the superior, may compel the religious who are applied to the vicariate or prefecture apostolic, even those who are ex-

empt, to undertake the care of souls, without prejudice, however, to peculiar statutes approved by the Apostolic See. (Can. 297.)

5. If in matters appertaining to the care of souls, a conflict arises, whether among missionaries, or among different religious institutes, or between a religious and anyone else, the Vicar or Prefect Apostolic shall, as soon as possible, endeavor to effect an agreement among the contending parties, and if necessary he shall settle the controversy himself; when this is done, the interested parties must obey, although if they wish, they may at the same time have recourse to the Apostolic See. (Can. 298.)

6. Without consulting the Apostolic See, Vicars and Prefects Apostolic are not allowed to grant a permanent leave of absence from the vicariate or prefecture apostolic to missionaries who were sent there by the Apostolic See, nor can they transfer them elsewhere, nor in any way expel them. In the case, however, of public scandal, they may remove a missionary at once, after having heard their councillors, and, in the case of religious, after having notified, if possible, their superior; but they must immediately send notice of the removal to the Apostolic See. (Can. 307.)

59. MONASTERY

A *monastery* is a religious *community* of *monks* or *nuns* or the *house* in which one or the other of these communities resides. (See MONKS; NUNS.)

60. MONASTIC CONGREGATION

A *monastic congregation* is the union of several independent monasteries under the same superior. (Can. 488, n. 2.) (See ABBOT.)

61. MONKS

1. This term, corresponding to the Latin *monachi,* designates religious who from their first origin were devoted chiefly to a life of *prayer* and *contemplation.* Accordingly, they did not devote themselves to works of the sacred ministry habitually, but only under special circumstances or in cases of necessity. In the course of time, however, the exercise of the sacred ministry became part of their work in many of their communities.

2. The *Annuario Pontificio* for the year 1922 (a Roman official publication) gives the following list under the heading of *Monachi* or *Monks:*

1. *Benedictine* Confederation comprising fifteen congregations.

Outside the Confederation:

2. *Camaldolese*
3. *Vallumbrosians*
4. *Sylvestrines*
5. *Olivetans*
6. *Armenians*

Moreover:

7. *Cistercians*
8. *Carthusians*
9. *Antonians*
10. *Basilians*

62. NORMAE

1. On June 28, 1901, the S. Congregation of Bishops and Regulars issued a document with the title: *Normae secundum quas S. Congr. Episcoporum et Regularium procedere solet in approbandis Novis Institutis Votorum Simplicium,* norms which it is customary for the S. Congregation of Bishops and Regulars to follow in approving institutes of simple vows. These *normae* were divided into two parts or sections; the first dealt with the order ob-

served by the S. Congregation in approving new institutes, the second contained an outline of the constitutions. The first section, more generic, embodied directions as to how Ordinaries and superiors should apply to the S. Congregation for receiving pontifical recognition, whether this consisted in a decree of *commendation* or of *approval* of the institute. The second section contained a rather detailed enumeration of the regulations which must be embodied in the constitutions according to the laws and the discipline of the Church, concerning religious.

2. On March 6, 1921, the S. Congregation of Religious issued another document, under practically the same title; that is, norms which it is customary for the S. Congregation of Religious to follow in approving new religious congregations. (*Acta Apostolicae Sedis,* XIII, 312.) As is said in the beginning of this new document, these *normae* of 1921 are a reprint of the *first* section of the *normae* of 1901, adapted to the new universal Code of Canon Law. The S. Congregation did not deem it necessary to add the *second* section of the old *normae* because, at present, the writers of the constitutions must take into consideration the new canons on religious, and for further directions they may consult authors who wrote after the former *normae.*

The new *normae* are divided into six chapters. Omitting in this article what refers to Ordinaries who intend to establish a new congregation in their diocese (see RELIGIOUS INSTITUTE, ¶ 5), here we mention briefly the chief enactments which have reference to the Roman approval of diocesan congregations.

3. Chapter I. *Various decrees of approval.* The first act on the part of the Holy See is a decree of *commendation,* or praise, of the institute, the second is a formal *approval* of the same.

To obtain the first, the following documents must be sent to the S. Congregation of Religious: (*a*) the petition, addressed to the Roman Pontiff, signed by the superior

general and by his assistants or councillors; (*b*) testimonial letters to be given, sealed and under secret, by all the Ordinaries of the places where the institute has houses; (*c*) an account, signed by the superior general and his assistants or councillors and approved by the Ordinary of the place of the principal house (mother-house), supplying accurate information concerning the name of the founder, the origin of the institute, its personal, disciplinary, material and economical status, the establishment of the novitiate with the number and discipline of novices and postulants; (*d*) printed (or typewritten) copies of the constitutions, drawn up in Latin, Italian or French, and revised and approved by the Bishop (a decree of March 24, 1914, required ten copies of the constitutions); (*e*) in the case of *tertiaries* living in common, a written statement of the superior general of the *first* order, testifying that the congregation of *tertiaries* has been duly aggregated to the *first* order according to Canon 492, § 1. (See RELIGIOUS INSTITUTE, ¶ 6.)

4. Ordinarily the second decree, or the decree of approval of the institute is not granted until after a certain number of years after the first decree was given, have elapsed, during which time sufficient proof must have been given of the fitness of the constitutions, of regular discipline and of zeal in carrying out the external works of the congregation. To become acquainted with all this, the S. Congregation of Religious must be supplied with a second account, to be given by the superior general when applying for this decree of approval, with new testimonial letters of the Ordinaries in whose dioceses the congregation has houses, and with new copies of the constitutions.

5. Chapter II. *Congregations that are never approved, or only with precautions.* These are: institutes whose object is too vague or universal, or whose members live exclusively on alms; congregations of sisters who take care of the sick of both sexes in their homes, day and night; moreover those congregations or sisters whose special ob-

ject is to have in their religious houses boarders of both sexes, or to establish boarding houses for priests, or to teach grown-up boys; finally institutes destined to take immediate care of infants or of maternity hospitals and similar works of charity, which works do not seem to become virgins consecrated to God and wearing a religious garb.

6. Chapter III. *Approval of constitutions.* Besides giving the decrees of commendation and of approval of the institute, it belongs to the S. Congregation of Religious to approve the constitutions. Often, from the beginning the constitutions are approved only temporarily; modifications are recommended and their final approval is given after a successful experiment of their fitness and usefulness has been made.

7. Chapter IV. *Points to be excluded from the text of the constitutions.* (*a*) Quotations from the holy Scriptures and from pious writers; (*b*) extracts from manuals of prayers, spiritual directories, ceremonials, custom-books (although all such books should be sent to the S. Congregation for revision); (*c*) statements embodying, directly, the duties of Bishops and confessors; (*d*) schedules of time for daily observances; (*e*) terms of Canon Law which are not applicable to religious congregations, such as: *rule, order, monastery, nuns,* instead of *constitutions, congregation* (or *religious institute of simple vows*), *house, sisters,* respectively; (*f*) long ascetical instructions and mystical considerations which find a more suitable place in ascetical works, as the constitutions must contain only the constitutional laws of the congregation and the directive regulations of the acts of the community; (*g*) finally, over-minute regulations about secondary offices, regarding the kitchen, the infirmary, the clothes-room, etc.

8. Chapter V. *General requisites of the constitutions.* The constitutions must contain explanations and regulations (*a*) about the nature, the vows, the members and the manner of life of the religious congregation; (*b*) about the

government, administration, and offices of the congregation.

All this may be distributed in three or four parts; each part should be divided into chapters, each chapter into articles or paragraphs with progressive numbers from the first to the last.

9. Chapter VI. *Title.* The title or name of the congregation may be taken from one or the other of the divine mysteries, or from one of the feasts of our Lord or of the Blessed Virgin, or from a name of some saint or, finally, from the peculiar end of the institute.

In conformity with Canon 492, § 3, it is forbidden to adopt a title that has been taken by a congregation already established. Should the title be the same, some addition should be made to it, that the distinction between the two may clearly appear.

63. NOVITIATE

(See TERMINOLOGY)

Following the order of the Code, this article has two main divisions: admission into the novitiate and the novitiate itself, with subdivisions as follows:

I. *Admission to novitiate.*
   1. Qualifications.
      (*a*) Necessary for validity of admission.
      (*b*) Obligatory, but not for validity.
   2. Right to admit candidates.
   3. Other requisites.
      (*a*) Testimonials.
      (*b*) Dowry.
      (*c*) Examination of postulant.

II. *Novitiate itself.*
   1. Habit.
   2. House.
   3. Essential requisites.

4. Master and mistress of novices.
5. Training.
6. Confessors.
7. Privileges.
8. Property.
9. Expenses.
10. Status of novices.

I. Admission to Novitiate

1. qualifications

(*a*) *Necessary for Validity of Admission*

1. According to Canon 542, n. 1, the following cannot be admitted validly to the novitiate, unless a dispensation is obtained from the Holy See. (See Sanction, ¶ 19.)

(*a*) Those who, having been Catholics, joined a non-Catholic sect. The words "having been Catholics" are not to be found in the canon as it stands in the Code, but we have supplied them because the Pontifical Commission on the Code has authoritatively declared that the canon excluding converts is not to be understood of those who were born in heresy or schism and who under the influence of God's grace entered the Church, but only of those Catholics who fell away from the Church and joined a non-Catholic sect. (Pontifical Commission on the Code, Oct. 16, 1919, n. 7. *Acta Apostolicae Sedis*, XI, 477.)

2. (*b*) Those who have not reached the requisite age; that is, those who have not completed their fifteenth year.

3. (*c*) Those who enter a religious institute under compulsion, or through grave fear, or by fraud, as well as those whom superiors are induced to admit under the same circumstances.

The admission of a subject into a religious institute requires perfect freedom both on the part of the aspirant and on the part of the institute itself. Rightly, therefore, when entire freedom of action is wanting, admission is declared to be invalid.

Grave fear supposes the threat of a serious evil which is apt to disturb men and women of ordinary fortitude. Accordingly, were a girl to enter a community in order to avoid defamation of character, with which she is threatened unless she embraces the religious life, or were a superior to admit a girl because her father threatens the convent with a serious financial loss, unless his daughter is accepted, these admissions would be null and void. However, in order that grave fear invalidate admission, it must be the result of an unjust act on the part of a free cause, as in the cases just mentioned. But in the case of a person who took a vow to enter a religious institute out of fear of death when in danger of a shipwreck, the vow would hold and the entrance would not be invalid.

Compulsion seems to be the same as physical force, but is not very frequent in our times.

Fraud or *deceit* implies a false representation of facts, with the object of bringing another into error. Fraud invalidates entrance or admission only when it is due to its influence that a party enters or is admitted; for instance, in the following cases: If a girl embraces the religious life because she is made to believe that the vows are nothing more than a pious resolution without any serious obligation towards God. Again, if a girl lacks qualities without which aspirants are refused admission into a certain institute, and she is admitted in consequence of the fact that, knowing well the attitude of the institute, she purposely misrepresents her condition when properly questioned by the authorities.

It is of great importance, therefore, that aspirants be candid in their answers. On the other hand, superiors should not put to them questions which they have no right to propose. They should abstain from questioning candidates about points for which the constitutions make no provision. Indelicate questions concerning facts which a candidate has no obligation to reveal will cause unnecessary and harmful anxieties not easily dispelled. Superiors, may,

of course, put questions which have reference to the qualifications required by the constitutions, but always with the utmost prudence.

4. (*d*) Married persons, while the marriage bond lasts. Before the Code went into effect, the parties were allowed to embrace the religious state without the intervention of the Holy See, provided certain conditions were verified. Now, the Holy See wants to examine every case in order to prevent scandals and disturbances to religious institutes which might arise from too hasty resolutions in such an important matter.

5. (*e*) Those who are still bound by religious profession, as well as those who, though actually free, were once bound by religious vows.

The first part of this paragraph excludes from admission into a religious institute those who are still bound by their religious profession in another institute. (See CHANGE OF INSTITUTE, ¶ 1.) The second part excludes all those who were once bound by religious vows, even though their former vows have in any way ceased. Their vows may have ceased either through an indult of secularization (Can. 640), or by virtue of a special indult of the Apostolic See (Can. 669), or in consequence of dismissal during the period of temporary vows (Can. 648), or because the religious left the institute on the expiration of temporary vows (Can. 637). In all these cases ex-religious are excluded by the Code from admittance into any novitiate, *without exception,* and consequently, even though they wish to reenter the same institute to which they formerly belonged.

6. (*f*) Those on whom a punishment is impending because of some grave crime of which they have been accused or are liable to be accused.

Not every crime of which one is accused or may be accused excludes entrance into a religious institute. It must be a grave crime, one of those crimes which bring public disgrace upon the person who is accused of having per-

petrated it. To those who *have been accused* of a serious crime, the law adds those who *are liable to be accused: accusari possunt.* The Latin expression is rather vague, but it cannot mean the mere *possibility* of being accused. The law affects those on whom, on account of this fact, a punishment is *impending;* consequently it requires more than the possibility of a charge, it requires the probability or a real danger of accusation. This danger does not exist if the crime is unknown or if it is known only to persons who are not likely to make it public.

7. (*g*) Bishops, whether residential or titular, even though only nominated by the Roman Pontiff.

Strictly, a priest does not become a *Bishop* until he has received episcopal consecration. But episcopal consecration is preceded by an appointment which is reserved to the supreme authority of the Church, whether this appointment is altogether free on the part of the Roman Pontiff, or presupposes a legitimate *election* or *presentation,* of a candidate. According to the present enactment, as soon as the *appointment* is complete, one way or the other, through the necessary intervention of the supreme authority, the person thus appointed falls under this law, even though he has *not yet been consecrated, nor has taken possession* of his episcopal office.

8. (*h*) *Clerics* who by a disposition of the Holy See are bound by an oath to exercise the ministry in a diocese or mission, until the period for which the oath was taken has expired.

This paragraph refers to those clerics who receive free education in certain colleges or are admitted to sacred orders, on the condition, required by some special regulation of the Apostolic See, that they promise, under oath, to consecrate their services to their diocese or mission. Before the period for which the oath was taken has expired, they are excluded from admission to religious institutes unless they secure a dispensation from the Holy See.

9. These various prohibitions affect both institutes of

men and of women, with the exception of those under (*g*) and (*h*), which, of course, refer only to institutes of men.

(*b*) *Obligatory, but Not for Validity of Admission*

10. According to Canon 542, n. 2, it is forbidden to admit to the novitiate the following: (See SANCTION, ¶ 19.)

(*a*) Clerics in sacred orders, who have not consulted their Ordinary, or to whose entrance in a religious institute he objects because their withdrawal would be the cause of serious and unavoidable detriment to souls.

11. (*b*) Those who are burdened with debts and who have no way of paying them.

12. (*c*) Those who are bound to give an account of their administration of affairs or are involved in some secular business under such circumstances that the institute may fear future lawsuits and troubles.

13. (*d*) Children whose duty is to give assistance to their parents; that is, to father or mother, grandfather or grandmother, who are in sore need; parents also whose assistance is necessary for the support and education of their children are excluded.

In regard to the first part of this enactment, children are bound by the natural law itself to help their parents who stand in great need of their assistance. It is difficult to define exactly what is understood by a *great* need in this matter. In general, a *great* need may be said to exist, if there is question of parents who are not in a condition to procure for themselves what is necessary for their decent support, or who, in order to procure what they need, are obliged to endure rather severe hardships and meet serious difficulties, by being forced, for instance, to beg or to do work seriously detrimental to their health, or even incompatible with their rank in society.

In regard to the second part of this same enactment, parents are obliged by the natural law itself to lend the necessary assistance to their children.

As long as these obligations last there cannot be question of embracing the religious state which, of itself, is not *of obligation*. If, however, in these two cases, respectively, the children could secure for their parents the assistance of some wealthy friend, or the parents could, without their personal cooperation, safely provide for the support and education of their children, they would not fall under the law, and they would be free to embrace the religious state.

14. (*e*) Those who in a religious institute are destined to receive the sacred order of priesthood from which, however, they are actually debarred because of some irregularity or other canonical impediment.

In institutes of men which are composed of two classes of religious; namely, of priests and brothers, candidates must be received into the novitiate expressly for one or the other class. According to the terms of this enactment, candidates who are under an irregularity or some other canonical impediment should not be received for the class of priests before the obstacle has been removed.

15. (*f*) Orientals who wish to join an institute of the Latin Church, unless they have obtained permission, in writing, from the S. Congregation for the Eastern Church. The reason for this enactment is that Orientals could hardly join a Latin institute without being obliged to change to that rite, and to do this the permission of the Holy See, which is granted through the Congregation just mentioned, is necessary.

16. It is clear that the enactments under (*a*) and (*e*) have reference only to institutes of men, while the other enactments affect both institutes of men and of women.

2. RIGHT TO ADMIT CANDIDATES

17. According to Canon 543 the right to admit postulants to the novitiate rests with one of the higher superiors with the advice or consent of the chapel or council, as the constitutions of every institute may prescribe. It be-

longs, therefore, to the constitutions to determine (*a*) which of the higher superiors, the general or the provincial is to exercise this right; (*b*) whether this higher superior has to hear the council or chapter; (*c*) whether he is obliged only to hear the opinion of one of these two bodies, or is bound also to follow its decision.

3. OTHER REQUISITES

(*a*) *Testimonials*

18. To prevent the admission into religious institutes, of unworthy or unreliable candidates, the law requires that superiors should not admit to the novitiate aspirants before they have secured suitable certificates and testimonial letters, according to the following enactments. These enactments, though strictly obligatory, do not bind under pain of invalidity, but of licitness. We can group these enactments under two general headings: (See SANCTION, ¶ 19.)

(i) What testimonials are required.

(ii) How they must be issued.

(i) What Testimonials are Required

19. In every institute all aspirants must, before being admitted, show a certificate of Baptism and Confirmation. (Can. 544, § 1.) In case the certificate cannot be procured, because, for instance, the parochial books have been destroyed by fire, the written testimony of reliable witnesses, such as parents, godparents or friends, will suffice.

20. In institutes of men, aspirants must, besides, produce testimonial letters from the Ordinary of the place of their birth, as well as from the Ordinaries of the places where, after having completed their fourteenth year of age, they have resided for more than a year morally continuous. (Can. 544, § 2.) A twelve months' residence does not cease to be *morally* continuous, if now and then it has been broken by short interruptions. Thus, if one

takes up his residence in a city and on account of business stays away for several days every month, at the end of twelve months he will have resided in that city for a year morally continuous. On the other hand, if, having taken up his residence in that city, and having remained there for five or six months, he stays away for two or three months in succession, at the end of the twelfth month after first coming to that city, it cannot be said that he has resided there for a morally continuous year. This enactment bears the clause: every privilege to the contrary being revoked, and therefore it must be observed also by those institutes which received an exemption in this regard before the New Code became effective.

21. In the case of aspirants who have been in a *seminary* or *college* the law requires testimonial letters to be issued by the president of the institution, after having consulted the Ordinary of the place, and aspirants who have been in a *postulancy* or *novitiate* of another institute, must have testimonial letters from one of the higher superiors. (Can. 544, § 3.) Judging from the preceding legislation, and taking into consideration the broader meaning of the Latin word "college" (*collegium*), testimonial letters are required, whether a boy or a girl has been in a *college,* properly so called, or in a *high school* or *academy.*

22. For admitting *clerics,* not all the testimonials mentioned thus far are necessary, but, ordinarily, it is sufficient to have the certificate of ordination and testimonial letters from the Ordinaries of the places where, after their ordination, they have lived for more than a year morally continuous. However, even in their case, the testimonial letters referred to in the preceding paragraphs are required if they have been in a *seminary,* or *college,* or in a *postulancy* or *novitiate* of another institute. (Can. 554, § 4.)

23. For admitting aspirants, who, being still professed, come, with apostolic indult, from another religious institute, the testimony of the higher superior of the institute from which they come is sufficient. (Can. 544, § 5.)

24. Besides these testimonials, the superiors, to whom it belongs to admit aspirants to the novitiate, are at liberty to require any other testimonial which they judge to be necessary or useful in the matter. (Can. 544, § 6.)

25. Finally, in the case of institutes of women, aspirants should not be received before a careful inquiry has been made in regard to their disposition and morals. (Can. 544, § 7.) As the law does not require testimonials for women from the Ordinaries of the places where they have lived for over a year, it was necessary to add this enactment, by which superiors are reminded of the obligation of procuring all the necessary information as each particular case may require. Moreover, this enactment is independent of the other contained in § 3 of Canon 544 (see above, ¶ 21) which must be observed whenever the circumstances mentioned in above mentioned section 3 are verified.

(ii) How Testimonial Letters are to be Issued

26. Those who are bound by law to issue these testimonial letters, must send them, not to the aspirants, but directly to the religious superiors, and free of charge, within three months from the time when application for them was made, sealed, and in the case of aspirants who have been in a seminary, college, or in the postulancy or novitiate of another religious institute, they must give them under oath. (Can. 545, § 1.) This last clause does not require the intervention of a notary public in the issuing of these letters. The law is fulfilled, if the signer of the letter declares that the statements contained in it are given under oath.

27. If the persons from whom these letters are to be asked, judge, for some grave reason that they cannot comply with the request, they must inform the Apostolic See of the reason for their refusal within three months from the time when they were asked for them. (Can. 545, § 2.)

28. If they answer that the aspirant is not known to

them, the religious superior shall supply the deficiency by making other careful inquiries from trustworthy sources; but if they give no answer at all, the superior who applied for the letters shall inform the Holy See of the fact that he received no reply. (Can. 545, § 3.)

29. After having made a careful investigation, even by secret inquiries if this is necessary, those who have to issue these testimonial letters, mindful of their serious responsibility for the truth of their statements, must thus supply written information on the following points: birth, morals, character, life, reputation, rank, learning of the aspirants, whether they are subject to a juridical inquiry, or bound by a censure, an irregularity or some other canonical impediment, whether their family stands in need of their help and, finally, when there is question of those who have been in a seminary, college, or in the postulancy or novitiate of another religious institute, for what reason they were dismissed, or chose to leave. (Can. 545, § 4.)

To protect those who have to supply the above information, the Code declares in Canon 546 that the persons who have received it are strictly obliged to keep secret both the information itself and the name of the persons who supplied it. (Can. 546.)

30. (*b*) In institutes of women: *a dowry.* (See DOWRY.)

31. (*c*) In institutes of women: *canonical examination of postulant.*

At least two months before the time settled for the admission of a postulant to the novitiate, the superior must inform the Ordinary of the place (Can. 552, § 1), and at least thirty days before the novitiate is to begin, the same Ordinary, or, in case he is absent or in any way incapacitated, a priest delegated by him must make the canonical examination of the postulant. The object of this examination is to make sure that the candidate embraces the religious state with the necessary *freedom* and *deliberation.*

In keeping with this object, the Code enjoins on the examiner to inquire: (*a*) whether the postulant has been *forced* or *deceived* and (*b*) whether she *knows what she is doing*. (Can. 552, § 2.) Accordingly, he must prudently ask (*a*) whether she has been induced to apply for admission, through fear, deception or some other undue influence and (*b*) whether she is sufficiently acquainted, in general, with the nature and obligations of the religious state and of the institute which she intends to join.

This examination must be made carefully, free of charge and without entering the cloister, and if the pious intention and freedom of the postulant are thus ascertained, she may be admitted to the novitiate. (Can. 552, § 2; S. C. of Religious, March 20, 1922. *Acta Apostolicae Sedis*, XIV, 352.) (See SANCTION, ¶ 20.)

II. NOVITIATE ITSELF

1. HABIT

32. The novitiate begins with the reception of the habit or in any other manner prescribed by the constitutions. (Can. 553.) More commonly it is the reception of the religious habit that marks the beginning of the novitiate, but if the constitutions prescribe otherwise, such prescriptions must be observed.

The habit prescribed for novices by the constitutions must be worn throughout the whole period of novitiate, unless special local circumstances require otherwise. (Can. 557.)

2. HOUSE

33. (*a*) The house which has to be the seat of the novitiate must be established according to the constitutions; but in the case of a pontifical institute, before establishing it permission of the Apostolic See is necessary. (Can. 554, § 1.)

(*b*) When an institute has more than one province, more

than one house should not be set apart for the novitiate in the same province, except for a grave reason, and with special apostolic indult. (Can. 554, § 2.) A sufficiently grave reason would be had, were the novices so numerous as to render proper individual attention from the master quite impossible or very difficult.

(*c*) Superiors shall assign to the house where the novitiate is located only such religious as will serve as examples, by their diligence in observing religious discipline. (Can. 554, § 3.)

(*d*) In the house where the novitiate is located, the section set apart for the novices must, as far as possible, be separated from the apartments of the professed, so that, without a special reason and without permission of the superior or of the master of novices, these shall have no communication with the professed, nor the professed with the novices. (Can. 564, § 1.) Moreover, there should be a separate place for the lay members of the novitiate, if the institute has lay brothers or lay sisters, respectively. (Can. 564, § 2.)

3. ESSENTIAL REQUISITES

34. In order that the novitiate be valid, besides the *qualifications* which are required *of the candidates* for validity of the novitiate, as explained above, the following conditions must be verified: (Can. 555.)

(*a*) When the aspirants begin their novitiate they must have completed their fifteenth year of age.

(*b*) The probation must last one *full* and *continuous* year.

(*c*) It must take place in the house of the novitiate.

35. (*a*) As to the first condition. In keeping with the rule laid down in Canon 34, § 3, n. 3, the fifteenth year of age is not regarded as *complete* for admission to the novitiate, until the fifteenth anniversary of birth has passed, because in reckoning the age in such cases as these the day

of birth is not taken into consideration. Accordingly, those, for example, who were born on January 1, 1905, had to wait until the first of January, 1920, had expired before they could begin their novitiate.

36. (*b*) As to the second condition. (i) The novitiate must last one *full* year. In other words, from the time when the novitiate begins to the time when it ends, an *entire* year must have elapsed. The day of entrance is not reckoned. Thus, for those who enter on January 2, the novitiate ends when the second of January of the next year has expired, and they must wait until the beginning of the third for making their profession. It does not matter whether the year has 365 or 366 days.

37. (ii) Moreover, the year must be *continuous,* or *uninterrupted.* Continuity is broken in three ways. (Can. 556, § 1.)

(1) When a novice has been dismissed by superiors and has gone out of the house. The mere order of the superior to leave is not sufficient; the novice must *have left* the house.

38. (2) When, without being dismissed, a novice leaves the house without permission, with the intention of not coming back. Here also two conditions must be verified: to leave without permission, and to have the intention of not returning. If either of these is wanting, the continuity is not broken, as far as this case is concerned.

39. (3) When, even with the permission of the superior, a novice remains outside the house for more than thirty days, for any reason whatsoever. This last clause is so universal that according to the law the continuity is broken even if one has to remain outside the house for more than thirty days on account of sickness. We say: "if a novice has to remain outside the house," since the continuity would not be broken if, because of illness, a novice was forced to remain that length of time in the *infirmary of the convent.* The interruption is verified whether the thirty days

of absence are continuous or interrupted. Thus, if a novice stays away; for instance, eight days every month, at the end of the fourth period of absence the novitiate ceases to be continuous. Finally, in order for the continuity to be broken by this protracted absence, every one of the thirty days of absence must comprise twenty-four consecutive hours, from midnight to midnight. (Can. 32, § 1.) Hence, if a novice remained out of the house from every morning till evening for thirty-one days, the novitiate would not thereby be interrupted.

40. (4) An absence, then, which does not exceed thirty days, whether continuous or interpolated, does not interrupt the novitiate, and in spite of it the novitiate need not be repeated. But the Code contains two further enactments concerning such shorter absence; namely:

If, either with the superior's permission or because compelled by force, but remaining under the superior's obedience, a novice stays away more than fifteen days, whether these days are successive or interpolated, the time of absence must be supplied under penalty of invalidity of the novitiate. Although the novitiate need not be repeated, it is necessary, for its validity, to add to it as many days as are wanting to the full year on account of this absence.

If the absence does not exceed fifteen days, the law does not require that the days of absence be supplied, but it declares that superiors may prescribe this addition if they wish, either by a general regulation or for particular cases. This, however, is not necessary for validity of the novitiate. (Can. 556, § 2.)

41. (5) To these two enactments concerning an absence which does not exceed thirty days the Code adds a warning to superiors not to give novices permission to remain outside the limits of the novitiate without a just and grave cause, and a declaration that the year of novitiate is not interrupted by the fact that a novice is transferred from one novitiate to another. (Can. 556, §§ 3, 4.) In re-

gard to this last declaration, it matters not whether the two novitiates belong to the same province or to different ones, provided both houses belong to the same religious institute.

42. (*c*) As to the condition requiring that the novice-ship should take place in the house of the novitiate, this condition is fulfilled if a novice resides within the limits of the same house even though he does not always live in that *section* which, according to Canon 564 (see above, ¶ 33), is set apart for the novices.

43. In institutes that are composed of two distinct classes of members; that is, clerics and lay brothers, choir sisters and lay sisters, the probation which is made for one of these two classes is not valid for the other class. (Can. 558.)

4. MASTER AND MISTRESS OF NOVICES

44. (See MASTER AND MISTRESS OF NOVICES.)

5. TRAINING

45. (See MASTER OF NOVICES, ¶¶ 5, ff.)

6. CONFESSORS

46. (See CONFESSORS, ¶¶ 37, ff.)

7. PRIVILEGES AND RIGHTS

47. Novices enjoy all the privileges and spiritual favors which are granted to the institute and in case of death they have a right to the same suffrages which are prescribed for the professed in the constitutions. (Can. 567, § 1.) They must not be promoted to orders during the novitiate. (Can. 567, § 2.)

8. PROPERTY

48. (See PRIVATE PROPERTY, ¶¶ 2, ff.

9. EXPENSES DURING POSTULANCY AND NOVITIATE

49. Unless the constitutions or an express agreement require the payment of a certain sum for food and clothing on entering the postulancy or the novitiate, nothing can be exacted to defray the expenses of the postulancy or the novitiate. (Can. 570, § 1.)

50. If the aspirants leave without having made their profession, all that they may have brought with them and that has not been consumed by use must be returned to them. (Can. 570, § 2.)

10. STATUS OF NOVICES BEFORE PROFESSION

51. (*a*) Novices may freely leave the institute, or they may be dismissed, for any just cause, either by the superiors, or by the chapter, according to the constitutions. In case they are dismissed, the superiors or the chapter are not obliged to manifest to them the reasons of the dismissal (Can. 571, § 1); but although those who have power to dismiss novices may do so without manifesting to the novice the reasons of dismissal, they would act unlawfully it they were to make use of their power without a sufficient reason. By so acting, they might injure not only the novice but the institute itself.

52. (*b*) When the novitiate is over, the novices who are judged suitable must be admitted to profession, otherwise they must be dismissed; but if it is doubtful whether they are fit, higher superiors may prolong the time of the novitiate for a period not to exceed six months. (Can. 571, § 2.) The right to admit novices to the profession belongs to one of the higher superiors with the consent of the council or chapter, as the constitutions may prescribe. (Cans. 543, 575, § 2.)

53. (*c*) Before novices take their vows they must make a spiritual retreat of at least eight full days. (Can. 571, § 3.)

64. NUNS

I. *Definition.*

II. *Communities with solemn vows by constitution.*

III. *Nuns with simple vows by pontifical enactment.*

IV. *Dependence on regulars or Ordinary of the place.*

I. Definition

1. In the English language the term *nuns* is sometimes taken as a synonym of *sisters,* or religious women, and is applied to all members of religious institutes, whether of solemn or of simple vows. But in its stricter sense, when the term corresponds to the Latin *moniales,* it designates the members of religious institutes of women who *by virtue of their constitutions* should take *solemn* vows, even though by pontifical enactment they take only *simple* vows. (Can. 488, n. 7.) This is the sense in which the term *moniales* is taken in the Code except when the context or the subject matter makes it clear that it is to be applied only to the members of communities in which the constitutions have undergone no modification on this point and the vows are still recognized by the Church as solemn. (Can. 488, n. 7.) A case in point are the canons which govern *papal* enclosure, properly so called. (See Enclosure, ¶¶ 3, 8, ff.) The communities of nuns referred to in these canons are only those whose members still take solemn vows.

II. Communities with Solemn Vows by their Constitution

2. The communities of women whose vows by virtue of their constitutions must be solemn are most frequently those that belong to the older institutes in the Church; as the Benedictine Nuns, the Norbertines, the Cistercians, the Poor Clares, the Dominicans and the Carmelites. These,

and other similar *orders* of *women,* often developed side by side with the corresponding order of *men* whose rule and constitutions they followed. Usually the order of men was the first to be founded and accordingly was called the *first* order, while the corresponding order of women was called the *second.* Besides the *second* orders, other orders of nuns have been established independent of any order of men, as the Visitandines and the Ursulines.

III. Nuns with Simple Vows by Pontifical Enactment

3. The above definition of *moniales* implies that there are nuns who, notwithstanding their original institution take *simple,* instead of *solemn* vows. This has been repeatedly declared by the Holy See to be the case in regard to the nuns in France and in some parts of Belgium and Austria. As to this country, a communication of the S. Congregation of Bishops and Regulars, addressed to the Archbishop of Baltimore on September 30, 1864, contains the following enactments and declarations:

(1) The vows that are taken by the Nuns of the Visitation of the Blessed Virgin Mary in the monasteries of Georgetown, Mobile, St. Louis, Baltimore and Kaskaskia, are solemn. (The last mentioned monastery has since ceased to exist.)

(2) The vows that are taken by the other nuns in the monasteries which have been established in the past, are simple, except in the case in which a monastery has received a pontifical rescript allowing the nuns to take solemn vows.

(3) As to the monasteries to be established in the future, the vows to be taken by the nuns shall be simple.

(4) This third and last statement must be understood with this tacit limitation: unless the Apostolic See will grant to the members of some monastery the faculty to take solemn vows. It is evident that such a grant, made by the

Holy See since the year 1864, would of itself derogate the general rule *that this statement embodies.*[1]

IV. Dependence on Regulars or Ordinary of the Place

4. The Code repeatedly distinguishes between nuns who are *subject to the jurisdiction of regulars* and nuns who are not subject to their jurisdiction. The latter are *not exempt* from the jurisdiction of the Ordinary of the place, the former *are exempt* from episcopal jurisdiction, *except* in the cases expressly mentioned in the law. (Can. 500, § 2, 615.)

Ordinarily the nuns not subject to regulars are those whose institute is not attached to an order of men, as the Visitandines and the Ursulines. These, therefore, are not exempt from episcopal jurisdiction. The nuns whose institute is attached to some order of men, such as the Norbertines and the Poor Clares, are subject, by virtue of their constitutions, to the regular superiors of the same order, and consequently should be exempt from episcopal jurisdiction. In countries, however, where, in conformity with some pontifical enactment, they do not take solemn vows, they no longer owe canonical allegiance to the superiors of the corresponding order of men, and are no longer exempt from the jurisdiction of the Ordinary of the place, unless the Holy See has decreed otherwise for some community.

5. As has been stated above, the exemption which nuns who are subject to regulars enjoy is not so absolute as not to admit exceptions, although the exceptions must be specified in the law. Thus, for instance, the Ordinary of the place may assist and preside at the election of their abbess (Can. 506, § 2), he approves their confessors (Can. 525), intervenes when they invest money

[1] Bizzarri, *Collectanea S. C. Episcoporum et Regularium,* ed. 1885, pp. 86, 454, 455, 451, 735.

(Can. 533, § 1, n. 1), receives an account of the administration of their property. (Can. 535, § 1, n. 1.) (See EXEMPTION, ¶¶ 48, ff.)

65. OBEDIENCE, VOW OF

I. *Definition.*

II. *Division.*

III. *Authority to give an order by virtue of this vow.*

IV. *Expression of order.*

V. *Subject matter of order.*

VI. *Virtue and vow.*

I. DEFINITION

1. The *vow of obedience* is a promise made to God to obey the commands of superiors in matters contained explicitly or implicitly in the constitutions.

II. DIVISION

2. It may be *simple* or *solemn.* All actions performed in violation of the vow whether solemn or simple, are illicit; but the actions which are contrary to the solemn vow of obedience are also invalid, if they are capable of being made null and void. (See PROFESSION, RELIGIOUS, ¶ 27.) Thus, if by virtue of holy obedience a superior forbids a subject to make a certain promise to another, and the subject disobeys, his action is always sinful, whether his vow of obedience is solemn or simple, but if his vow is solemn, his action is also invalid; that is, *as a promise,* it is null and void.

3. In keeping with the definition of this vow which has been given above, the vow of obedience is violated and the action is sinful, when the following conditions are veri-

fied. (*a*) The command must come from one who *as superior,* has the authority to give an order by virtue of this vow. (*b*) The *will* of the superior must amount to a real *command.* (*c*) The subject matter of the command must have more or less direct reference to the constitutions. We explain these three points in the following paragraphs.

III. Authority to give an Order by Virtue of this Vow

4. The *superiors* who have the power to give orders by virtue of this vow are: the general, the provincial, and, unless the contrary is clearly laid down in the constitutions, the local superior, who is at the head of the whole house, whether he is called rector, or guardian, or prior, etc. Likewise, those to whom these superiors communicate this power according to the constitutions or legitimate custom. This power does not reside in the subordinate superiors of a local community (vicars, ministers, etc.), unless the constitutions declare otherwise.

5. Besides these superiors, who may be called *internal,* because they are themselves members of the religious institute over which they rule, religious, *as such,* are subject to the *Roman Pontiff* on account of the plenitude of his power over the whole Church. Consequently, as the vow of obedience is the promise made by Christians to God to obey those who are *their* superiors as religious, their vow, in matters contained explicitly or implicitly in the constitutions, extends to the Roman Pontiff, as is also stated expressly in Canon 499, § 1.

6. The members of *diocesan* congregations are subject to the *Ordinary of the place,* as *religious,* and consequently the latter has the power to give to them orders by virtue of this vow. The same does not seem to be true of members of *pontifical* institutes, except in the cases for which the Holy See has made a special provision. Thus, in the case of those who have received from the Apostolic See a

temporary indult to live outside the cloister, Canon 639 enacts that they are subject to the Ordinary of the place also by virtue of their vow of obedience, because for the time being the latter replaces their religious superiors.

IV. Expression of Order

7. One of the other conditions which must be verified in order that there be a violation of the vow of obedience is the *will* of the superior, amounting to a real *command*. If a superior entertains a mere wish, or a desire, however serious and strong, that an action be performed by his subject, his will is *not preceptive* and there cannot be question of a real command. A real command supposes such a will on the part of the superior as to intend to bind the conscience of his subject. Such a will is *preceptive*, and amounts to a true command. But in order that subjects may be bound to obey the preceptive will of their superiors, the latter must, of course, make it known to them. That is, they not only must express their will that a subject should perform a certain action, or abstain from it, but they must express their will in such a way as to make it clear to subjects that their will is *preceptive*. Hence the practical question: How must superiors express their preceptive will or *command* so as to bind their subjects under penalty of *sinning* against the vow? According to the more common and prevalent practice, if the subject matter of the order is something which is looked upon as being *grave* and important (whether, for instance, there is question of enforcing the fulfilment of the vows or of the acceptance of an office, or of the observance of such rules as meditation, assistance at Mass, and the like, or of the avoidance of dangerous occasions), superiors sufficiently express their will so as to impose a real command under penalty of *mortal sin*, when they use either one or the other of these expressions: "by virtue of holy obedience"; "in the name of Jesus Christ," or they employ expressions which

amount to a *formal* precept, by saying, for instance, that they oblige *under penalty of mortal sin.* In exempt clerical institutes the will of superiors to give such a formal command may be gathered also from the penalty by which they may threaten the violation of the order, when, namely, the penalty is a canonical punishment which cannot be inflicted except for a grave sin.

If the *subject matter* of the order is evidently *slight,* there cannot be question of a *grave* precept and the will of the superior to impose a real obligation, but *not a grave one,* is sufficiently expressed by him if he says that he *obliges, orders, commands, forbids* (*etc.*), this or that action.

8. As was remarked above, these paragraphs embody the more common and prevalent practice in the way of expressing commands which must be obeyed under penalty of committing a sin against the vow of obedience; but in every institute it is necessary to consult first the constitutions, which must be followed if they differ in any way from the rules that have been given here.

9. In cases of doubt as to whether the subject matter of the command is *grave* or *slight,* if a superior sufficiently expresses his will to oblige under penalty of *mortal* sin, the presumption is that the command is grave and it must be obeyed as such until a higher superior decides otherwise.

10. Although in the cases of precepts which are not grave, the transgression is, of its own nature, only a venial sin, it may amount to a mortal sin if it is prompted by *contempt* of the *authority* of the superior. Contempt for the legally constituted authority, *as such,* proceeds from true pride and is a mortal sin, as true pride is itself a mortal sin.

This kind of contempt which proceeds from *pride* should not be confounded with the contempt which proceeds from other inordinate feelings that ordinarily are only slightly sinful, such as vainglory, sloth, emotions of anger, and the like. True pride is a mortal sin, because it implies such

an inordinate love of one's own excellence as to prompt a person to despise the authority of God and His representatives. It very seldom happens that religious refuse to obey out of true pride and because they despise the *authority* of their superiors. As a rule, their acts of disobedience are prompted by other inordinate feelings which do not necessarily amount to mortal sins. They may fail in obedience because they prefer their own ease to the fulfilment of the order, or because they look upon the order as unnecessary or too severe, or even because they are not well disposed towards the *person* of their superior on account of his manner of acting or other personal peculiarities.

V. Subject Matter of Order

11. As to the third condition; namely, the relation between the subject matter of the order and the constitutions, this relation must be such that the subject matter of the command be contained in the constitutions, explicitly or, at least, implicitly.

The subject matter of the order is contained in the constitutions *explicitly*, or directly, when the command amounts to the enforcement of articles contained in the text, whether the articles state or declare the obligations arising from the vows, or deal with the means to be employed for the sake of fostering the religious spirit, safeguarding religious discipline and securing the peculiar object to which the institute devotes its energy in the classroom, in hospitals, in churches, etc. Such are the articles which refer to meditation, examen, silence, the manner of dealing with externs, and the like. The subject matter of an order is contained in the constitutions *implicitly* or indirectly, when it is not mentioned expressly in the text, but it is conducive to religious observance in conformity with the spirit of the same constitutions. Accordingly, the subject matter of a command may be the performance of some penance to repair the disedification

given by the neglect of the rules, the avoidance of occasions which may be dangerous, the employment of means which are conducive to the attainment of the particular end of the institute.

12. What is not contained either explicitly or implicitly in the constitutions is not the subject matter of the vow of obedience and cannot form the subject matter of a command to be obeyed by virtue of this vow, because it is understood that the vow of obedience is taken in conformity with the constitutions. Superiors, therefore, have no power to command things which are foreign to or lie altogether outside the constitutions. Much less are they authorized to command the performance of actions which are contrary to the constitutions. In cases, however, of *doubt* as to whether an order is *erroneous* or whether it is *contrary* or *foreign* to the constitutions, the presumption is in favor of the superior and subjects must obey until the higher authorities have decided that the immediate superior has gone beyond his powers; but cases of this kind are not likely to happen.

VI. Virtue and Vow

13. A twofold difference can be pointed out between the *vow* and the *virtue* of obedience.

First, the vow has no direct reference to the *interior* acts of the intellect and the will. Provided one performs exteriorly what is commanded, in spite of the interior disagreement of judgment or of a certain amount of reluctance on the part of the will, he fulfils the *vow*. But the *virtue* prompts religious to accompany their exterior acts by corresponding acts of their intellect and will. No matter how hard to nature the command may be, good religious do not give way to feelings of displeasure and sadness when the command is not pleasant, but try to conform their will to the will of their superior. Moreover, if they are well disposed to the order, as com-

ing from God's representative, they will not condemn it as unreasonable because they do not see the reason of the command; rather they will endeavor to see whether there may not be some reason to justify the superior's action. Even if it is evident to them that the order is wrong (a case which happens very seldom), they will reconcile themselves to the superior's will, on the general principle that, apart from reasonableness of the command, what God requires them to do is obey.

14. Moreover, the vow obliges only in cases in which superiors bind under penalty of sin, by virtue of the vow; the virtue prompts religious to act in accordance with their superiors' will even when the latter give orders without intending to impose a real obligation.

66. OBLIGATIONS

1. All religious, whether superiors or subjects, are bound to tend to the acquirement of Christian perfection by faithfully and exactly fulfilling their vows and by regulating their lives in accordance with the rules and constitutions of their own institute. (Can. 593.) (See Vows, ¶ 8; Rules and Constitutions, ¶ 6.)

2. Moreover, all religious, whether they belong to a clerical or to a lay institute, are bound by the same general obligations which the law lays on *clerics* on account of the sanctity of their state. (Can. 592.) These obligations are embodied in the following paragraphs.

Clerics must avoid all occasion of scandal which may arise from living in the same house with persons of different sex. (Can. 133.)

3. They are forbidden to enter contracts of *guarantee* or *suretyship* without the permission of their Ordinary. (Can. 137.) A contract of *guarantee* or *suretyship* is made when one person agrees to pay another a certain sum of money, due the latter by some third person, in case such third person shall fail to discharge his obligation.

4. They must abstain from occupations which are not becoming the clerical state; for instance, the profession of actor in a theatre, or the occupation of saloonkeeper. They should not play games of *hazard* or *pure chance* to the extent of risking money in them. They must not carry weapons, except when they may be needed in self-defence. They should not *indulge* in *hunting* and *never* join in the chase. Clerics are forbidden also to enter saloons and similar places, except in cases of necessity. (Can. 138.)

5. Besides abstaining from occupations which are *not becoming* their state, they must avoid whatever is *foreign* to their calling. Accordingly:

(1) Without apostolic indult (*a*) they should not *practice* medicine or surgery (but they are not forbidden *occasionally* to lend their assistance to their friends); (*b*) they cannot act as *notaries public* except in an ecclesiastical court; nor (*c*) are they allowed to assume public offices which entail the exercise of lay jurisdiction or administration, as the offices of president of a republic, governor of a state and mayor or prefect of a city. (Can. 139, §§ 1, 2.)

(2) Without the permission of their Ordinary (*a*) they must not be managers of property belonging to lay people, nor accept secular offices which carry with them the obligation of giving an account of their administration; hence they must not act as guardians of orphans, nor as presidents, directors, secretaries, and treasurers of banks; (*b*) when in a civil court a *criminal* case is tried which may imply a grave personal penalty, like capital punishment, they cannot take any part in it, not even as witnesses, unless necessity requires that they should do so. (Can. 139, § 3.)

(3) As to the office of *senator* or *deputy* in legislative bodies, (*a*) in countries where there may be a pontifical prohibition, they cannot solicit or accept these offices without the permission of the Holy See; (*b*) in other countries

(like ours) they need the permission of their own Ordinary and of the Ordinary of the diocese where the election has to take place. (Can. 139, § 4.)

6. Furthermore, clerics should not assist at shows, dances and secular pageants, especially in theatres, whenever either the amusements are unbecoming a cleric, or they are of such a character that by their presence clerics may give scandal to the faithful. (Can. 140.) Evidently this prohibition does not extend to *sacred* plays, even when these are performed in public theatres, nor to representations and moving picture shows which take place in educational institutions and parish halls under the supervision of superiors and pastors.

7. Clerics are forbidden to volunteer for military service. In some countries where military service is compulsory and those who have to serve are drafted, students who volunteer to enlist are given the privilege of a shorter period, for instance, one instead of three years. The Code allows clerics to enlist for the sake of enjoying this privilege, but they must secure the permission of their Ordinary. (Can. 141.)

8. Finally, clerics are forbidden to engage in what is called in Latin *negotiatio,* which comprises business transactions of a purely commercial character. (Can. 142.) The *negotiatio* consists in buying commodities *for the sole purpose* of reselling them, *unchanged,* at a higher price. The prohibition, therefore, does not affect the following transactions: to buy commodities with a view of providing for future emergencies and afterwards resell the surplus even with a profit; or to buy with the intention of reselling at a higher price, after having improved the article by one's own art and industry. In the former of these two cases, the transaction is an act of domestic administration; in the latter it amounts to the exercise of an art and, as such, it is not unbecoming a cleric, provided it does not interfere with the discharge of his duties. In neither case is

temporal gain the exclusive or even the chief purpose of the undertaking or transaction. Moreover, even when there is question of purely commercial trade, or *negotiatio* properly so called, what is forbidden is to undertake it *habitually;* one single act, undertaken on some extraordinary occasion, would not fall under the prohibition.

9. These are the enactments, which in conformity with Canon 592, bind also religious, even those who do not belong to the clerical state.

10. As to the other obligations mentioned in Canons 594–612, see the special articles under the following headings: COMMON LIFE (Can. 594); PIOUS EXERCISES (Can. 595); RELIGIOUS HABIT (Can. 596); ENCLOSURE (Can. 597–607); CHURCH (Cans. 608, 609, 612); DIVINE OFFICE (Can. 610); LETTERS (Can. 611).

11. We close this article by mentioning a few other enactments which lay down the conditions under which certain offices may be exercised by religious.

Religious are not allowed to act as *sponsors* at Baptism or Confirmation, except in urgent cases and with the permission of their superior. (Cans. 766, n. 4; 796, n. 3.)

In the matter of judicial proceedings, even before ecclesiastical courts, (*a*) they should not undertake the office of *arbiter* without permission of their superior (Can. 1931); (*b*) with permission of their superior they may act as *attorneys* or *procurators* in cases in which the interest of their institute requires their cooperation (Can. 1657, § 3); (*c*) without permission of their superior, religious, as such, cannot act as *complainants* or *defendants*, except in the following cases: (i) when there is question of defending, against their institute, the rights which they have acquired by their religious profession; for instance, the right to remain in the institute; (ii) when they lawfully reside outside the cloister and there is urgent need of protecting their rights; (iii) when they wish to lodge a complaint against their superior (Can. 1652); (*d*) religious superiors cannot

take part in a trial in the name of their community except in conformity with the constitutions (Can. 1653, § 6); (*e*) in the cases of beatification and canonization, they cannot act as *notaries* unless necessity requires it, but never in cases which are promoted by their own institute (Can. 2014); when there is question of proving the repute for sanctity of a servant of God who belonged to their institute, at least half of the witnesses should not be members of the institute concerned; in the case of a martyr, the same holds in proving public belief in his martyrdom. (Can. 2030.)

67. ORATORIES

I. *Definition.*

II. *Divisions.*

III. *Public oratories.*

IV. *Semi-public oratories.*

V. *Private oratories.*

I. Definition

1. An *oratory,* or chapel, is a place set apart for divine worship, not, however, *primarily* for the use of *all* the faithful in their public practice of religion. (Can. 1188, § 1.)

In this definition it is said that an oratory is not established *primarily* for all the faithful, for the reason that the *primary* object in establishing an oratory is to benefit a *community* or *private individuals,* although the faithful at large may acquire the right to visit it.

II. Divisions

According to the different relations which oratories bear to the *public,* or to a *community,* or to *private* persons, oratories are divided into *public, semi-public* and *private* or domestic.

2. An oratory is called *public*, if, though established for the benefit of a community or private persons, *all the faithful* possess a legitimately proven right to visit it, at least during the celebration of the Divine Offices. (Can. 1188, § 2, n. 1.)

3. It is called *semi-public*, if it has been established for the benefit of a *community* or of *a certain class* of faithful who frequent it — nor have *all* the faithful free access to it. (Can. 1188, § 2, n. 2.)

4. It is called *private* or domestic, if it is established in a private residence, exclusively for the benefit of a *family* or of a *private* person. (Can. 1188, § 2, n. 3.). Oratories legitimately established in religious houses are not *private* or domestic, but *semi-public*.

III. Public Oratories

5. The difference between a *public oratory* and a *church* is only accidental, as both a church and a public oratory are actually open to all the faithful for public worship. Accordingly, public oratories are governed by the same laws which obtain for churches: the same permissions are required for opening them; they are dedicated to divine worship by the same sacred rites; the right to bless or consecrate them belongs to the same persons, and once they have been duly blessed or consecrated all the sacred services may be celebrated therein, without prejudice, however, to any rubrical law to the contrary. (Can. 1191.)

IV. Semi-public Oratories

6. A semi-public oratory cannot be established without the permission of the Ordinary. (Can. 1192, § 1.) The Ordinary whose permission is required is the Ordinary of the place; but in the case of exempt clerical religious institutes, it is one of the higher superiors. (Can. 198.) The same Ordinary who has given the permission has the

right and duty to visit the oratory, either in person or through some other ecclesiastic in order to ascertain that it is becomingly established, according to the requirements of law. (Can. 1192, § 2.)

7. The law does not forbid religious communities to have, with due permission, more than one oratory; it forbids, however, colleges, schools, garrisons, prisons, hospitals, etc., to have, in addition to their main oratory, other minor oratories, unless the Ordinary prudently judges that necessity or utility requires them. (Can. 1192, § 4.)

8. Ordinarily semi-public oratories are neither consecrated nor blessed with the blessing which belongs to churches and public oratories, although it is fitting that some other suitable blessing of the Roman Ritual be used; for instance, that one called *benedictio loci,* or *blessing of a place;* but even when semi-public oratories have received no blessing, once they have been legitimately established with permission from the Ordinary as required by law, they cannot be used for profane purposes without permission from the same Ordinary. (Can. 1192, § 3.)

9. In a semi-public oratory, legitimately established, all the Divine Offices and ecclesiastical services may be celebrated, unless the rubrics provide otherwise or the Ordinary has excepted some of them. (Can. 1193.)

V. Private Oratories

10. As to private or domestic oratories (see above, ¶ 4) after an indult from the Apostolic See has been secured (the terms of which must always be adhered to), and after the Ordinary has approved the place, as has been said in regard to semi-public oratories, one Mass may be celebrated therein every day, with the exception of the more solemn feast days of the year; but other ecclesiastical services should not be held in them. (Can. 1195, § 1.) The Ordinary, however, may in particular cases permit that even on the more solemn days which are excepted by

law, Mass may be celebrated, provided there exists some just and reasonable cause, different from that for which the indult was granted. (Can. 1195, § 2.)

11. Private oratories must not be consecrated, nor blessed with the blessing which belongs to churches and public oratories (Can. 1196), but the so-called *benedictio loci* or *benedictio novae domus;* namely, the *blessing of a place,* or the *blessing of a new house,* may be used.

68. ORDER, RELIGIOUS

A religious *order* is an institute in which *solemn* vows are taken, whether by all of its members or by a class of them. If none of its members are admitted to solemn vows, the institute is called a *congregation.* (Can. 488, n. 2.) (See INSTITUTE, RELIGIOUS; VOWS, ¶ 3; PROFESSION, RELIGIOUS, ¶ 27.)

69. ORDERS, SACRAMENT OF

1. This article does not deal with all the canons which govern ordinations, but chiefly with those which make express mention of religious, especially if they also affect *exempt* religious.

I. *Minister.*

II. *Requisites for ordination.*

III. *Other requirements before ordination.*

1. Letters.
2. Examination.
3. Publication of candidates' names.
4. Retreat.
5. Profession of faith.

IV. *Record of ordination.*

I. Minister

2. A *governing abbot of regulars* may confer tonsure and minor orders, provided the candidate is his subject at least by simple profession and he is himself a priest and has received the blessing required for abbots. Beyond these limits he cannot confer orders, unless he has episcopal character. (Can. 964, n. 1.)

3. Exempt religious must receive ordinations from the Bishop to whom their religious superiors have given *dimissorial* letters. *Dimissorial* letters are those by which one having authority in the matter of ordination directs his subject to a Bishop to be ordained by him.

According to law, in exempt religious institutes:

(*a*) This power resides in the higher superiors. (Can. 964, n. 2.)

(*b*) These higher superiors can give dimissorial letters both for minor and for major orders to subjects who have taken solemn vows, but to subjects with only simple vows they can give dimissorial letters for tonsure and minor orders only; and every indult to the contrary; that is, every indult empowering them to give dimissorial letters for major orders to the professed of simple vows, has been revoked by the Code. (Can. 964, n. 3.)

(*c*) They must direct their dimissorial letters to the Bishop of the place where the candidate's community is located. (Can. 965.)

(*d*) They may direct their dimissorial letters to a Bishop different from the Bishop of the place only when the latter has given his consent, or is of a different rite, or is absent, or is not going to hold ordinations at the time appointed by the law in Canon 1006, § 2, or finally, when the see is vacant, and he who governs it is not a Bishop. In each of these cases, however, the ordaining Bishop must be informed of the circumstances, through an authentic notice to be issued by the episcopal curia. (Can. 966.)

(*e*) They are warned against the subterfuge of sending a subject for ordination to another religious house outside the diocese or of deliberately withholding dimissorial letters until such a time as the diocesan Bishop will be absent or will not hold ordinations. (Can. 967.) (See SANCTIONS, ¶ 18.)

(*f*) If a higher superior has episcopal character, he may licitly confer ordinations in the cases in which he may grant dimissorial letters. (Can. 959.)

4. The ordinations of all other religious is governed by the laws which, in this matter, govern the ordinations of seculars. (Can. 964, n. 4.) Accordingly religious who are not exempt are subject to the Bishop of the place in which they have a domicile, and cannot be ordained by another Bishop without his dimissorial letters. Religious have their domicile in the place where the community to which they belong resides.

According to Canon 964, n. 3: "Superiors may grant dimissorial letters to the professed of simple vows mentioned in Canon 574 only for tonsure and minor orders." The term *superiors, without restriction,* and the reference to Canon 574 would seem to favor the interpretation that this power resides in *all superiors* of clerical institutes with perpetual vows, even though the institute is *not exempt.* But in view of the context, it is more probable that the superiors referred to in n. 3 of Canon 964 are only the higher superiors of *exempt* institutes mentioned in n. 2 of the same canon, not other superiors except in virtue of an apostolic indult. (Blat, *De Sacramentis.* Can. 964, p. 380; Fanfani, *De Jure Religiosorum,* n. 214; Vermeersch-Creusen, *Epitome Juris Canonici,* II, 241.)

II. REQUISITES FOR ORDINATION

5. A higher superior may forbid promotion to orders for any canonical reason, and this without the formalities of a trial; but the candidate has the right to appeal to the

Holy See, or, if the prohibition comes from the provincial, also to the superior general. (Can. 970.)

6. The subdiaconate may not be conferred before one has completed his twenty-first year of age; the diaconate not before one has completed his twenty-second year, and the priesthood not before one has completed his twenty-fourth year. (Can. 975.)

7. No one may receive tonsure before having commenced his theological studies. The subdiaconate is not to be conferred until about the end of the third year of theology; the diaconate not until the beginning of the fourth year and the priesthood only after the middle of the fourth year. The theological studies must be made, not privately, but in schools established for the purpose, in keeping with the rules contained in Canon 1365. (Can. 976.)

8. As to the *canonical title;* that is, the guarantee required by the canons for the support of clerics in major orders (*a*) in the case of regulars, it is their solemn profession, or, as it is called, the title of poverty, *titulus paupertatis;* (*b*) for religious of simple, but perpetual vows, it is the title *mensae communis,* or *congregationis,* or some other similar title according to the constitutions; (*c*) the other religious follow the enactments of the law concerning seculars. (Can. 982.)

9. Candidates for orders must be free from irregularities and other canonical impediments. If they are not, they must secure a dispensation, but illegitimate children cease to fall under the prohibition if they have been legitimized or have taken solemn vows. (Can. 984, ff.)

10. The Ordinary of the place may dispense his subjects from all irregularities which have been contracted by reason of an occult crime, with the exception of the irregularity referred to in Canon 985, n. 4, and of any other where the case has been brought to court. The same faculty of dispensing is enjoyed by higher superiors in favor of their subjects. A case is not brought to court in the sense of

the law until the judge summons the defendant to appear before him. Confessors have the same faculty in urgent occult cases when there is no time for recourse to the respective Ordinary and loss of reputation or some other serious harm may result from the delay, but their dispensation has only the effect of allowing clerics to *exercise the orders already received,* and does not imply the faculty to *receive orders.* (Can. 990.)

11. If one has been dispensed from an irregularity for the sake of lawfully receiving orders, he is still debarred from the office of higher superior in clerical exempt religious institutes. (Can. 991, § 3.)

III. Other Requirements before Ordination

1. letters

12. (*a*) A candidate for ordination must produce the following documents:

(i) Certificate of his last ordination, or, in the case of a candidate for the tonsure, a certificate of Baptism and Confirmation.

(ii) Certificate that he has completed the required studies for each order.

(iii) Certificate of good conduct to be given by the rector of the seminary or by the priest under whose care he was placed while staying outside the seminary.

(iv) Testimonial letters from every Ordinary in whose diocese he remained long enough to be able to contract a canonical impediment.

(v) Testimonial letters from his higher superior, if he belongs to a religious institute. (Can. 993.)

13. These are the documents which, according, to Canon 993, must be produced by candidates who are *seculars,* or who are *religious* of the class which, in the matter of ordinations, is governed by the same laws as seculars. This general enactment, however, need not be interpreted so as

to require that both classes (seculars and religious) should produce *all* these documents. Thus religious may be dispensed from the certificates of Baptism and Confirmation, as well as from the testimonial letters of good conduct. (i, iii.)

The length of time which the law generally considers as sufficient for contracting a canonical impediment is three months for soldiers and six months for others after the age of puberty. The ordaining Bishop, however, may for reasons of prudence demand testimonial letters for a shorter stay, and even for a period that preceded the age of puberty. (Can. 994, § 1.)

14. (*b*) In the case of religious who are ordained with dimissorial letters of their superiors, the law requires that, in these letters, besides directing the candidate to the ordaining Bishop, the superior shall testify that the candidate has made his religious profession and belongs to his community, and shall give testimony about the studies made and the other legal requirements. A Bishop needs no testimonial letters besides these dimissorial letters. (Can. 995.)

2. EXAMINATION

15. Each candidate, whether secular or religious, even though exempt, must undergo a diligent examination in the order to be received. Candidates for major orders must pass an examination also in other treatises of sacred theology. It belongs to the Bishop to settle on the method, examiners and treatises in theology for the examination. (Can. 996.)

The Ordinary of the place who ordains, by virtue of his own right, or who grants dimissorial letters, is the one who receives this examination; but he may leave it to the ordaining Bishop if the latter is willing to take the responsibility. (Can. 997, § 1.)

When a Bishop confers ordinations on one who is not his subject, whether the latter be secular or religious, and

the prelate who issues the dimissorial letters required by law testifies that the candidate has satisfactorily passed the examination in keeping with the preceding paragraph, the ordaining Bishop may accept as satisfactory the testimony thus given, but he is not obliged to do so, and if in conscience he thinks that the candidate is not fit, he should not ordain him. (Can. 997, § 2.)

3. PUBLICATION OF CANDIDATES' NAMES

16. The names of the candidates for ordination must be published in the parochial church to which the candidates belong, unless the Bishop dispenses; but this publication is not required in the case of religious who have taken perpetual vows, whether simple or solemn. (Can. 998, § 1.)

4. RETREAT

17. Reception of tonsure and minor orders must be preceded by a retreat of at least three full days, and each of the major orders by a retreat of at least six full days; but if one has to receive several major orders within six months the Ordinary may shorten the time of the retreat before the diaconate, though not so as to reduce it to less than three days. (Can. 1001, § 1.) If, after the retreat, the ordination is deferred beyond six months, the retreat must be repeated, but if the delay does not exceed six months, the Ordinary judges whether the retreat must be repeated or not. (Can. 1001, § 2.) In the case of exempt religious the Ordinary referred to in these enactments is one of the higher superiors.

Religious must make these retreats in their own house or in another house selected by their superior. (Can. 1001, § 3.)

The higher superior must notify the Ordinary of the place where their candidates have made the retreat required by law. (Can. 1001, § 4.)

5. PROFESSION OF FAITH

18. Before receiving the order of subdiaconate candidates, whether secular or religious, must make the profession of faith in the presence of the Ordinary of the place or of someone delegated by him. (Can. 1406, § 1, n. 7); moreover they must take the anti-modernistic oath. (S. Congregation of the Holy Office, March 22, 1918. *Acta Apostolicae Sedis*, X, 136.)

IV. RECORD OF ORDINATION

19. The higher superior who has granted dimissorial letters shall send notice of the ordination of each subdeacon to the church of his Baptism, so that the pastor may enter it in the baptismal register, as prescribed by Canon 470, § 2. (Can. 1011.)

70. ORDINARY OF THE PLACE

1. Besides the Roman Pontiff, those who in law enjoy this title are: residential Bishops (and their Vicar General), Vicar Apostolic and Prefects Apostolic, each of them in their respective territories. The same title belongs to those abbots and prelates who govern territories called *nullius* (*dioecesis*) that is, belonging to *no diocese*. An abbot *nullius*, though not a Bishop, has, in his territory, the ordinary powers of jurisdiction which belong to a Bishop in his diocese. Finally, the same title applies to those who in the case of death, resignation, etc., replace, according to law, one or the other of the Ordinaries just mentioned. Such is, in our country, the administrator of a diocese while the see is vacant. (Cans. 198, 323.)

A legate of the Roman Pontiff (nuncio, internuncio, Delegate Apostolic) does not have the title of Ordinary of the place, although in the country where he represents the Roman Pontiff he has ordinary powers. (Can. 267.)

An Archbishop is Ordinary *of the place* only in regard *to his own diocese,* although he has certain powers over all the dioceses which belong to his province.

2. All classes of religious are, at least to some extent, under the authority of the Ordinary of the place. The dependence of religious on the Ordinary of the place varies according to the class to which they belong.

In this connection we must first recall that religious institutes are (*a*) *diocesan* or *pontifical,* and (*b*) *exempt* or *non-exempt.* An institute is *diocesan* if it has been established only with the authority of a Bishop; it becomes *pontifical* when it receives a decree of approval or, at least, of commendation from the Apostolic See. (Can. 488, n. 3.) *Exempt* institutes are those which have been withdrawn from the jurisdiction of the Ordinary of the place; the others are *not exempt.* (Can. 488, n. 2.)

Moreover, it must be remembered that religious may be considered under a twofold aspect, namely, in their relations to the *Church,* and in their relations to their *institute.* The power that governs them under the former aspect may be called *external,* the power that rules them under the latter aspect may be termed *internal.* The publication of books, public worship, preaching to the faithful, the reception of sacred orders, the administration of property bequeathed for the benefit of the poor or the sick, etc., are acts which fall under the external government; whereas the reception of novices, their training, the admission of novices to profession, the administration of property which belongs to the institute, are acts that are subject to the internal government. The two powers which govern religious under this twofold aspect may coexist in the same person, or they may be separate.

3. Besides the subjection which all religious owe to the *Roman Pontiff* in regard both to the external and the internal government, and the subjection which they owe to their *religious superiors* in regard to the internal govern-

ment, their dependence on the *Ordinary of the place,* according to the different classes to which they belong, may be summed up in three principles, as follows:

(1) *Diocesan* institutes are subject to the Ordinary of the place in regard both to the internal and the external government.

(2) *Pontifical, non-exempt* institutes are subject to the Ordinary of the place in regard to the external government, not in regard to the internal government, except in the cases expressly mentioned in the law.

(3) *Pontifical, exempt* institutes do not depend on the Ordinary of the place either in regard to the internal or to the external government, except in the cases expressly mentioned in law.

4. The first of these three principles is sufficiently brought out in Canon 492, § 2. This canon deals expressly with diocesan institutes and declares that a diocesan congregation, even though in the course of time it may have spread over several dioceses, remains *diocesan, entirely* subject to the jurisdiction of the Ordinaries according to law, as long as it lacks a decree of pontifical approval or commendation. As, according to this canon, a diocesan institute is *entirely* subject to the jurisdiction of the Ordinary of the place, and neither here nor elsewhere is its dependence restricted to matters belonging to the external government, it is clear that the authority of the Ordinary of the place extends also to matters pertaining to the internal government, as has been stated above. But the canon qualifies this *entire* dependence, as being a dependence *according to law.* In keeping with this last clause, the Ordinary will have to exercise his authority so as to fulfill the conditions, which, in a few points, the law has placed on the exercise of his jurisdiction. Thus, for instance, although by virtue of his general power over diocesan institutes, it belongs to him to dismiss religious, whether they have temporary or perpetual vows, he can-

not issue the decree of dismissal unless certain formalities have first been observed. (Cans. 647, § 1, 650, § 2, n. 1, 652.) Likewise, before suppressing a house, he has to fulfill the condition laid down in Canon 498; he must, namely, hear the superior of the congregation; his power of suppressing houses does not extend to the suppression of the whole institute. (Can. 493.) Again, he may introduce changes in the constitutions (with the consent of the other Ordinaries in whose dioceses the institute may have houses), but he cannot touch those points which were submitted to the Holy See when the institute was first established. (Can. 495, § 2.)

5. The second principle regarding *pontifical, non-exempt* institutes is sufficiently proved from Canon 500 taken in connection with Canon 618. In the first of these two canons it is stated that institutes which are not exempt are subject to the jurisdiction of the Ordinary of the place. This canon includes both *diocesan* and *pontifical* non-exempt institutes and does not limit the Ordinary's jurisdiction over the *external* government, but in regard to *pontifical* institutes this limitation is made in Canon 618. This canon declares that in pontifical institutes (though not exempt) the Ordinary of the place has no power in matters pertaining to the *internal* government and discipline, except in the cases cited in the law. These exceptions refer, in most cases, to lay institutes, especially of women, including nuns, and are explained in other parts of this work, in the various articles to which they belong, respectively. We mention a few here by way of illustration.

Thus, at the time of his quinquennial visitation, the Ordinary of the place has certain rights over clerical institutes of simple vows (Can. 512, § 2, n. 2), and has still more extensive rights over lay institutes. (Cans. 512, § 2, n. 3, 618, § 2, n. 2.) In all institutes of women he has the right to be present at the election of the superior general and of the superior of a monastery. (Can.

506, §§ 2, 4.) Dowries cannot be invested without his consent. (Can. 549.) Postulants, novices and professed with temporary vows cannot be admitted to the habit, their first profession and their perpetual vows, respectively, without having been first examined by him or by someone delegated by him. (Can. 552.)

6. In regard to *exempt* institutes, according to the third principle stated above, they are not dependent on the Ordinary of the place, either in the internal or the external government, with the exceptions of the cases expressly mentioned in the law. It is true that no canon states *explicitly* that exemption extends both to internal and external government, but the obvious meaning of the canons which deal with exemption and the context of the law bear out the above statement, without any doubt. In fact, the Code repeatedly describes exemption as a privilege by which religious are not subject to the jurisdiction of the Ordinary of the place, *anywhere limiting* their freedom to matters of the *internal* government. (See Canons 488, n. 2; 500, §§ 1, 2; 615.) It is true that, according to the same canons, the privilege of exemption admits exceptions, but these exceptions are not of a general character and are all specified, in particular, in the law. We have summed up these exceptions in the article on EXEMPTION. (See EXEMPTION.)

7. We close this article by mentioning an obligation which is incumbent on all religious priests in their relations to the Ordinary of the place. All of them, even though exempt, are subject, like secular priests, to the liturgical law of mentioning in the Canon of the Mass, the name of the Bishop after the name of the Roman Pontiff. They are likewise bound to say at Mass the prayer (*collecta*) which the Ordinary of the place may have ordered for some special cause, in conformity, however, with the laws which regulate the addition of this prayer.

71. PAPAL BLESSING

According to Canon 915, regulars who have the privilege of imparting to the faithful the *papal blessing* may use this privilege only in their own churches and in the churches of nuns or of the third orders that are affiliated with their institute. (See THIRD ORDERS.) Moreover, they are not allowed to impart this blessing on a day when the Bishop imparts it to the faithful in the same place.

In this canon there is no question of the privilege which some religious have of giving the papal blessing at the end of the *mission* or *retreat*. The use of the latter privileges is dependent on this condition; namely, that a mission or a retreat has been given to the faithful; whereas the use of the former privilege referred to in this canon is in no way dependent on such a condition.

72. PARISH

1. A religious community may bear relation to a *parish* in different ways: (*a*) in regard to its *temporalities* only; (*b*) in regard both to its *temporalities* and the *care of souls*. The first of these unions is called a union *minus pleno jure;* namely, *without all full rights;* the second is termed *pleno jure,* that is, *with all full rights*.

2. In the case of a union which affects only the temporalities, the religious community acquires no right to the *office* of pastor, but only to the *income* attached to it. The parish, as such, remains *secular* and must be governed by a *secular* priest, who is put in charge of it by the Ordinary of the place after the candidate has been presented to him by the religious superior. (Can. 1425, § 1.)

3. In the case of a union which affects both the temporalities and the care of souls, the religious community comes into possession of both *income* and *office*. The parish becomes *religious* and is governed by a *religious* who is pre-

sented to the Ordinary of the place by the superior, and is put in charge by the same Ordinary. This union is of its nature so intimate and complete that the community itself is called the *parochus habitualis,* that is, the pastor in whom the office resides *habitually,* while the religious who governs is called *vicar,* or *parochus actualis,* namely, the pastor who *actually exercises* the care of souls. (Cans. 452, § 2, 471, §§ 1, 2, 1425, § 2.)

4. Neither of these unions can be effected without the authority of the Holy See. (Cans. 1423, § 2, 1425, § 1.)

5. The question may be asked whether by virtue of the union *with full rights* the religious community acquires the right to all the income or revenues of the *parish* or whether it acquires the right only to the revenues which belong to the *office* of pastor. Whatever may have been the opinion of canonists on this point in former times, the Code has framed its canons in keeping with the view that by virtue of this union the right of the religious community does not extend to all the revenues of the parish. See Canons 533, § 1, n. 4, 535, § 3, n. 2, which enact that clerics who are at the head of religious parishes are subject to the *Ordinary of the place* in investing the money which has been given to the *parish,* and that they must give him an account of the administration of this source of revenue. The reason for this dependence is more easily explained by the supposition that what is given to the parish is *parish property* and does not become the property of the community. It seems that on this point the Code has followed the view adopted by Leo XIII in the Constitution *Romanos Pontifices,* in determining the relations of Bishops and regulars in the matter of property in missionary countries.

6. Parishes cannot be established in the churches of religious women, whether of simple or of solemn vows. (Can. 609, § 2.)

7. A parish may be in charge of religious without hav-

ing been canonically united to the community in one of the two ways already explained. When no canonical union has taken place, the rights and duties of pastors do not reside in the community, but in the religious in charge. Accordingly, this religious is called simply *pastor,* and not merely *vicar* or *parochus actualis.* (See Cans. 454, § 5, 456 and 471.) The manner of appointment is the same as that described above in the case of a pastor-vicar of a parish which is united to a community with full rights. (Can. 456.) The pastor, and the community *through* the pastor, have a right only to the income attached to the office of pastor (salary, perquisites, etc.).

8. Whenever a church to which a religious community is attached is parochial, the relations between the community and the pastor are regulated according to Canons 609, § 1 and 415. The law warns both the pastor and the community that they should not interfere with one another in the performance of their respective duties and the exercise of their rights. The former should not interfere with the community in officiating in the church, as, for example, in chanting the Divine Office; and the latter should not interfere with the pastor in the discharge of his various duties, as, for example, in explaining the Gospel and giving catechetical instructions, conferring Baptism, assisting at marriages, conducting funeral services of externs. Functions which are not strictly parochial, as, for instance, Benediction of the Blessed Sacrament, may be performed by the pastor, if the community does not attend to them. In case of doubt or of conflict between the pastor and the community, it belongs to the Ordinary of the place to decide, especially in regard to the time which may be more suitable for explaining the Gospel and giving catechetical instructions.

9. Whenever there is a just and canonical cause, the Ordinary of the place has the power to divide a parish, even though there be question of a parish which has been

incorporated in a community *with full rights.* (Can. 1427, § 1.) The new parish does not assume the character of a *religious* parish, and the community has no right to be put in charge of the same. (Can. 1427, § 5.) If the religious superiors believe that the division has been made without sufficient reason, they may have recourse to the Apostolic See, but *their complaint has no suspensive effect,* and this means that the division may be carried out by the Ordinary, notwithstanding the complaint, until the Apostolic See decides otherwise. (Can. 1428, § 3.)

73. PAROCHIAL VICARS

I. *Various classes of vicars.*

II. *How religious vicars are appointed.*

III. *How religious vicars may be removed.*

I. Various Classes of Vicars

The Code distinguishes the following classes of *vicars:*

1. (1) Vicars of the so-called *habitual pastors.* (Can. 471, § 1, 452, § 2.) This name of *habitual pastor* is given to clerical religious communities and other corporations of clerics, in whom, with permission from the Apostolic See, the office of pastor, with all its rights, both spiritual and temporal, is vested perpetually. As it is not practical for a corporation to exercise the office of pastor, the law requires that a vicar should be appointed. The corporation retains the legal title of parochial office, but the vicar is the one who actually governs the parish, having all the corresponding rights and obligations.

2. (2) *Administrators,* who govern a parish during a vacancy until the new pastor is appointed. (Can. 472, n. 1.) An administrator has all the powers and duties of a pastor, except that he cannot make any change which might be prejudicial to the rights of the pastor or of the parochial benefice. (Can. 473, § 1.)

3. (3) *Substitutes,* who are in charge of a parish when the pastor has to be absent for more than a week. (Cans. 474, 465, §§ 4, 5.) A substitute has all the rights and duties of the pastor, unless the Ordinary or the pastor himself has made some limitations. (Can. 474: see also Can. 466, § 5.)

4. (4) *Coadjutors,* who are destined to replace a pastor when by reason of ill-health, old age or some other cause he has become permanently incapable of fulfilling properly all the duties incumbent on his office. (Can. 475, § 1.) A coadjutor has (*a*) all the rights and obligations belonging to a pastor with the exception of the Mass *pro populo,* (*b*) unless he is appointed to replace the pastor only in certain functions of his parochial charge, in which case the extent of his rights and obligations is defined in the letters of appointment. (Can. 475, § 2.)

5. (5) *Cooperators* (assistants, curates), who are appointed to assist a pastor, chiefly on account of the large number of the faithful belonging to a parish. (Can. 476, § 1.) The extent of the rights and obligations of cooperators depends on diocesan statutes, the letters of appointment and the commission given them by the pastor himself; but unless a different provision is expressly made, they are obliged by virtue of their office to replace the pastor and assist him in all parochial duties, with the exception of the Mass *pro populo.* (Can. 476, § 6.)

II. How Religious Vicars are Appointed

6. (1) When the vicar of a *habitual* pastor has to be appointed, the superior *presents* the candidate to the Ordinary of the place, and, if the candidate thus presented is properly qualified, the Ordinary confers on him the vacant office. (Can. 471, § 2.)

7. (2) The *administrator* of a vacant parish is appointed by the Ordinary of the place with the consent of the superior. (Can. 472, n. 1.)

8. (3) *Substitutes* are chosen by the pastor and are approved by the Ordinary of the place, and by the superior, unless, for some grave reason, the pastor has to leave suddenly without having had time to secure the approval of the substitute, in which case he must, as soon as possible, make known to the Ordinary the reason of his departure and the name of the substitute, and be ready, moreover, to abide by his orders. (Can. 465, §§ 4, 5.)

9. (4) A *coadjutor* is appointed by the Ordinary of the place after having been presented to him by the superior. (Can. 475, § 1.)

10. (5) As to *cooperators,* the superior, after having heard the pastor, presents them to the Ordinary of the place, from whom they must receive approbation. (Can. 476, § 4.)

III. How Religious Vicars may be Removed

11. Both the Ordinary of the place and the superior have each the power to remove religious vicars. He who exercises this right must first give notification of the removal to the other official, but neither is obliged to ask the consent of the other nor to make known to him the reasons for his decision. If the other official believes the removal to be unjust, he is free to enter a complaint with the Apostolic See; his complaint, however, does not interfere with the right of the other to enforce his decree of removal while the case is pending. (Can. 477, 454, § 5.)

74. PASTORS, RELIGIOUS

1. A religious may be at the head of a parish under the title of *pastor* or under that of *vicar.* He has the title of pastor when the parish over which he presides has been entrusted to the care of religious, but has not been incorporated or canonically united to the community. He has the legal title of vicar when there is question of a

parish which has been canonically united to the community. In this case the community is said to retain the *habitual* care of souls, while the parish is *actually* governed by a vicar. (See PARISH, ¶ 3.) For all practical purposes one who belongs to this class of vicars does not differ from a pastor. What is said here of religious pastors applies equally to such vicars. Mention of this class of vicars is also made in the article on PAROCHIAL VICARS.

I. *Appointment.*

II. *Removal.*

III. *Duties.*

IV. *Property.*

1. Ownership.
2. Offerings.
3. Investments.
4. Account.

I. APPOINTMENT

2. When a religious pastor has to be appointed, it belongs to the superior to propose to the Ordinary of the place the priest to whom the parish is to be entrusted, and it is the duty of the Ordinary of the place to confer the office on him. The Ordinary, however, has the right to see that the person who has been proposed has the necessary qualifications. (Cans. 456, 471, § 2, 459, § 2.)

II. REMOVAL

3. Religious pastors are all *removable.* Both the Ordinary of the place and the religious superior have the right to remove religious pastors. He who, in a particular case, exercises this right, is bound to give the other notification of his action, but he does not need his consent nor is he bound to make known to him the causes of the removal. In

case, however, the other believes that the removal is unreasonable, he may have appeal to the Holy See. This appeal to the supreme authority does not interfere with the carrying out of the removal, although he who decreed the removal must be ready to disclose to the Holy See the reasons of his action, if asked to do so, and he must abide by its decision. (Cans. 631, § 3, 454, § 5.)

III. Duties

4. A religious who as pastor is charged with the care of souls, must, of course, fulfill all the duties incumbent on his office, but he is still bound by his vows and the constitutions of his institute, which he must observe in so far as they are compatible with the fulfilment of his parochial obligations. (Can. 630, § 1.) This twofold character of *pastor* and *religious* makes him dependent upon two different authorities; namely, that of the Ordinary of the place and that of his religious superior. The Code defines his relations to these two authorities as follows:

(1) In all things which belong to religious discipline he is subject to his superior alone. Accordingly it belongs to his superior, and not to the Ordinary of the place, to inquire about his compliance with his religious obligations and to correct him, if necessary. (Can. 630, § 2.)

(2) On the other hand, in all things which have reference to the care of souls he is fully and directly subject to the Ordinary of the place. Accordingly he is subject, like all secular priests, to the visitation of the same Ordinary, with the sole exception, of course, of religious observance; that is, of the fulfilment of his duties as a religious. (Can. 631, § 1.) If the Ordinary becomes aware that he has failed to do his duty, he may issue the necessary orders and punish him as he deserves. The power, however, of so acting; that is, of issuing necessary orders and inflicting due punishment, does not belong to the Ordinary ex-

clusively, but is shared by his religious superior. Should it happen that both of them issue orders and that these do not agree, the provision taken by the Ordinary must prevail. (Can. 631, § 2.)

IV. Property

The Code makes special mention of the pastor's relations to his institute, to the parish and to the Ordinary of the place, in regard to property.

1. ownership

5. Whatever he receives for parish purposes becomes the property of the parish. In regard to all the rest, his relation is the same as that of other religious. (Can. 630, § 3.)

The first part of this rule is clear. When money or anything else is handed over to the pastor *for the parish,* the pastor is only a channel through which the parish comes into possession of what is thus given to it.

In the second part there is question of what is given to the pastor under some other title. In regard to this the Code does not say that it belongs to the institute, but only that it is acquired by the pastor in the same manner as would be the case if it were given to other religious. And rightly so, because all depends on the reason for which the money is given to the pastor. If it is given to him as a compensation for services rendered, as for instance, on the occasion of administering the sacraments, it becomes the property of the institute, as any other perquisite. (Can. 580, § 2.) If it is a pure *gift,* made *personally* to the pastor, a distinction has to be made as to whether he is professed with solemn, or with simple vows. In the former case the money goes to the institute (Can. 582, n. 1), in the latter case it becomes the property of the pastor, although in holding it and disposing of it,

he is not altogether independent of his superiors. (Cans. 580, § 1, 569.) See PRIVATE PROPERTY, ¶¶ 11, 13, 23.) Finally, if it is a gift intended for the community, it belongs to the community.

2. OFFERINGS

6. When there is question of offerings contributed for the purpose of helping the parishioners, Catholic schools, and other charitable institutions connected with the parish, he is allowed, in spite of his vow of poverty, to accept them, collect them and administer them, as well as to distribute them as in his judgment he prudently thinks best, in keeping with the will of the donors, although in all this he is not free from the vigilance of his superior. (Cans. 630, § 4, 609, § 1, 415, § 2, n. 5.) As to the right to accept, retain, collect and administer offerings for building the parochial church as well as for maintaining, repairing, and decorating it, the Code makes a distinction. If the church is owned by the community, this right belongs to the superior; otherwise it belongs to the Ordinary of the place. (Cans. 630, § 4, 609, § 1, 415, § 3, n. 3.)

3. INVESTMENTS

7. For investing money given directly to the parish or given to the religious clergy for the benefit of the parish, the pastor, even though belonging to an exempt institute, needs the consent of the Ordinary of the place. (Cans. 631, § 3, 533, § 1, n. 4.)

4. ACCOUNT

8. Moreover, his administration of revenues is subject to the supervision of the Ordinary of the place, to whom he must give an account. (Cans. 631, § 3, 535, § 3, n. 2, 533, § 1, n. 4.)

75. PENANCE, SACRAMENT OF

1. Superiors must see that their subjects approach the sacrament of Penance at least once a week. (Can. 595, § 1, n. 3.)

2. As to the various classes of confessors to whom religious *may* or *must go,* see CONFESSORS.

3. As to the faculty; that is, the jurisdiction which religious priests must have for *hearing* the confessions of others, whether seculars or religious, the Code contains the following enactments:

(1) (*a*) The faculty to hear the confessions of *seculars,* of *non-exempt* religious and of *exempt* religious of *lay* institutes, comes from the Ordinary of the place (Can. 874, § 1); and, apart from the cases in which religious *women* may go to any confessor who has been approved for women, a general faculty does not extend to the confessions of members of religious institutes of *women,* unless it mentions them expressly. (Cans. 876, 522, 523.) (See CONFESSORS, ¶ 28.)

4. (*b*) The faculty to hear the confessions of *exempt* religious belonging to *clerical* institutes, as well as of workmen, students, guests and sick persons who live in their house, may be given by the Ordinary of the place as in the preceding paragraph, or by their superior according to the constitutions. (Cans. 874, 875.)

5. (*c*) Religious who have received faculties from the Ordinary of the place cannot *licitly* use them without the permission, either expressed or at least presumed, of their superior; but this permission is not necessary for hearing the confession of religious men in the cases in which, according to Canon 519, these may licitly go to confession to any one who has faculties from the same Ordinary. (Cans. 874, § 1; 519.) (See CONFESSORS, ¶ 4.)

6. (2) The Ordinary of the place should not give jurisdiction to priests, even to exempt religious, unless their

fitness has been ascertained by means of an examination, except in the case of those whose theological knowledge is otherwise known to him; and religious superiors are likewise obliged to use this same precaution, whether they give jurisdiction or grant permission to hear confessions. (Can. 877, § 1.) Moreover, if at any time they doubt whether a confessor still has the necessary qualifications, they must subject him to another examination. (Can. 877, § 2.)

7. (3) The authorization to hear confessions may be given with certain limitations, but these should not be such as to restrict the concession to too great an extent without a reasonable cause. (Can. 878.)

8. (4) The Ordinary of the place and religious superiors should not *revoke* jurisdiction nor the permission to hear confessions, nor *withhold* it *for a time,* without a grave reason. In the case, moreover, of a formal house, Bishops are not allowed to take away jurisdiction from all the confessors of the religious house without having previously consulted the Apostolic See. (Can. 880, §§ 1, 3.)

76. PIOUS EXERCISES

Superiors must take care that all their subjects:

1. Make the *spiritual exercises* (usually called a *retreat*) once a year.

2. Every day, unless legitimately excused, assist at Mass, devote some time to mental prayer and perform with all diligence all the other devotional exercises which are prescribed in the rules and constitutions.

3. Approach the sacrament of Penance at least once a week. (Can. 595, § 1, nn. 1, 2, 3.)

4. As to the sacrament of the altar:

(*a*) Superiors must promote among their subjects frequent and even daily Communion, and all religious who have the right dispositions must be given full freedom to

receive the most Holy Eucharist frequently and even daily. (Can. 595, § 2.) From this twofold enactment it is clear how anxious the Church is that religious should be helped in the frequent reception of this most august sacrament. Not satisfied with recommending to superiors to promote among their religious subjects the practice of frequent and even daily Communion, the law declares, furthermore, that nobody should interfere with those who wish to follow this practice. In other words, while superiors are supposed to promote frequent Communion among their subjects, these are free to frequent this sacrament, whether their superiors exhort them to do so or not, provided they have the right dispositions.

(*b*) In this whole matter let religious be guided by the advice of their confessor. As to superiors, there is but one case in which they have the right to interfere with the reception of this sacrament. This happens when, since his last sacramental confession a religious has given grave scandal to the community, or has committed a grave external fault. In this case, the superior may forbid him to receive Holy Communion until he approaches the sacrament of Penance again. (Can. 595, § 3.)

(*c*) Whenever, in the constitutions, or rules, or calendars of an institute, certain days are marked as *Communion days,* or it is expressly stated that on certain days religious must receive Holy Communion, such regulations must be considered as being purely directive. (Can. 595, § 4.) Accordingly, religious must endeavor so to live as to be able to approach the Holy Table at least on those days, but they are in no way, thereby, restricted in their freedom to receive Holy Communion more frequently, or even daily.

77. PIOUS TRUSTS

1. By the term *piae fundationes, pious trusts,* the Code designates property in any way given to a *moral* person in the Church with a perpetual or long lasting obligation of performing certain religious or charitable works in consideration of the annual revenues. These works may be Masses, novenas, catechetical instruction, the care and support of the poor, and the like. (Can. 1544, § 1.)

2. In general, it belongs to the Ordinary of the place: (*a*) to prescribe rules that will settle the adequate value of the endowment below which the trust should not be accepted, and will provide for an appropriate distribution of the revenues; (*b*) to give the consent which is required before the trust is accepted; (*c*) to designate the place where the money or other valuables must be deposited in order that, as soon as possible, the money and the income derived from the sale of the valuables may be safely invested according to the prudent judgment of the same Ordinary; (*d*) to keep in the archives of the *curia* a copy of the written instrument relative to the trust; (*e*) to receive a report of the manner in which the obligations have been fulfilled. (Cans. 1545–1549.)

3. If the trust is established in a church of *exempt* religious, even though the church be parochial, these same rights and obligations belong exclusively to their higher superiors. (Can. 1550.)

78. PONTIFICAL INSTITUTE

An institute is called *pontifical* (*pontificii juris*) if it has been approved by the Holy See, or if it has at least obtained from it a decree of commendation. If it has been canonically established by some Ordinary, without having received a decree of approval or commendation from

the Holy See, it is called *diocesan* (*dioecesani juris*). (Can. 488, n. 3.) (See ORDINARY OF THE PLACE, ¶¶ 3, 5.)

79. PONTIFICALS

1. There are pontifical functions for which the liturgical laws require the use of the *pontifical insignia;* namely, the crozier and the mitre.

2. Archbishops and Bishops have the right to perform such functions in their entire provinces and dioceses, respectively, even in churches of exempt religious.

3. To use the pontifical insignia outside the limits of his diocese, a Bishop needs the consent, whether express or reasonably presumed, of the Ordinary of the place, together with the consent of the religious superior, if the church is exempt. (Cans. 274, n. 6; 337, §§ 1, 2; *Caeremoniale Episcoporum,* Book I, chapter xvii.)

80. POSTULANCY

1. *Postulancy* marks the very first stage in the religious life. It is the first probation to which aspirants are subjected before being admitted to take religious vows. The probation which is undergone in the novitiate might, perhaps, seem to be sufficient, but custom has sanctioned this preliminary probation, which is a sort of intermediary stage between the world and the convent, and the Code has made it obligatory for institutes of women and for lay brothers in institutes of men.

2. The object of the postulancy is twofold: namely, to ascertain that the aspirants have the correct idea of the state which they wish to embrace, and to accustom them by degrees to the more severe tests of the novitiate.

3. The Code requires a postulancy of six months for *women* and *lay brothers.* The law affects only institutes

with perpetual vows; as to the institutes in which only temporary vows are taken, let the constitutions be followed in regard both to the obligation of undergoing this first probation and to its length. (Can. 539, § 1.)

As to the meaning of the term *lay brothers,* this expression designates those lay members who in institutes of men (whether clerical or lay) hold a secondary position and do mechanical work. But it does not seem to extend to those religious who, though not clerics, are engaged in teaching, as is the case in several congregations of brothers, or lay institutes of men.

4. Higher superiors have the power to prolong the time of postulancy required by law, but not beyond an additional term of six months. (Can. 539, § 2.)

5. In regard to the manner in which the postulancy must be conducted, the Code is satisfied with a very few enactments. Postulancy must take place either in the novitiate or in some other house where religious discipline is faithfully observed, under the special care of some experienced professed religious. (Can. 540, § 1.)

6. The postulants must wear a modest dress, different from that of the novices. (Can. 540, § 2.)

7. In monasteries of *nuns* the postulants are bound to keep the enclosure. (Can. 540, § 3.) The monasteries referred to in this canon are those in which, at present, *solemn* vows are taken. Such monasteries are subject to papal enclosure (see ENCLOSURE) and, in keeping with a preceding decree of the S. Congregation of Religious, the present canon enacts that those who make their postulancy in these monasteries are bound by the enclosure. But should a postulant disregard the law and go out without the necessary permission, she would not incur the canonical penalty to which professed nuns of solemn vows are subject. (Cans. 601, § 1, 2342, n. 3.)

8. Before being admitted to the novitiate, the postulants must make a retreat of at least eight full days and, accord-

ing to the prudent judgment of their confessor, they shall make a general confession of their life. (Can. 541.)

81. POVERTY, VOW OF

I. *Definition and division.*

II. *Vow and virtue.*

III. *Subject matter of vow.*

IV. *Permission of superior.*

V. *Gravity of violation of vow.*

I. Definition and Division

1. The *vow of poverty* is the promise made to God to abstain from exercising the right of ownership without the superior's permission. The vow of poverty, as such, does not necessarily imply renunciation of the right to the property which one owns, or of the right to acquire new property, but it always entails the surrendering of the *independent use* of these rights. The renunciation of the ownership itself and of the right to acquire and hold new property belongs to the *solemn* vow of poverty.

2. By the *simple* vow, then, religious surrender the independent use of temporalities without being deprived of the temporalities themselves or of the valid use of their possessions. By the *solemn* vow religious deprive themselves of the property they own and become incapable of acquiring new property for themselves.

3. While the solemn vow entails a more perfect practice of evangelical poverty, the simple vow implies a sacrifice which is sufficient for placing the faithful who take it on a par with the poor of the Gospel. Although the professed of simple vows retain the ownership of their possessions, they *may not act as owners,* because, by virtue of their vow, they cannot use what they own as they wish. In

every act which they intend to perform in connection with the use of their property they depend on the will of their superiors. This is no little sacrifice, although it is not always sufficiently appreciated by persons outside the cloister. Who has not heard such remarks as these: "Religious take the vow of poverty, but, after all, they can get whatever they want; all they have to do is to ask." First, even if it were true that religious can get whatever they want, it is not pleasant to be obliged to ask for whatever one wants, even for the use and disposal of what one owns. Moreover, is it true that religious can obtain all they want, and that all that they have to do is to ask? It will depend on *what* they want and on *what* they ask for. To secure what they want they must be very moderate in their requests and must avoid asking for superfluous things. Their demands must, as a rule, be limited to things which are compatible with that peculiar degree of poverty which belongs to their respective institute. In fact, even if religious limit their demands to things which are not superfluous, they are not certain to secure the required permission. The superior may have a different view concerning the necessity of this or of that thing. He may have too high an idea of what religious moderation in temporal things requires, or he may be inclined by nature to strictness, but, whatever may be the cause of his disagreement, the fact remains that religious must be ready at times to submit to refusals, even in the case of reasonable demands. Fortunately, however, such cases are rare, because superiors have the correct idea of religious poverty and act prudently, by joining firmness with kindness. They know well that, often, in cases of doubt, it is more advisable to take the milder side in judging what may and what may not be allowed. It is unwise to try always to be on the safe side by using a strict criterion in granting permissions. In fact, those who wish always to be on the safe side are often deceived. Undue strictness is apt to

create discontent and, in the end, it may lead to results just as fatal to religious discipline as undue liberality.

II. Vow and Virtue

4. The *virtue* of poverty extends over a larger field than the *vow*. First, the *vow* has no direct reference to the internal acts of the will, the *virtue* has. Thus the vow obliges religious to obtain permission for the use of temporal things and to abstain from using them if permission is refused. All this can be done, whether the external action is accompanied by a corresponding conformity of the will or not, and, provided the external action is performed, the vow is fulfilled. But the virtue is not satisfied with this, and prompts the will to act in perfect conformity with the external fulfilment of the vow. Thus, if one asks for the necessary permission, but gives way to feelings of sorrow for being obliged to depend on the will of another, he fulfils the vow, but fails to act according to the virtue which recommends the subject to be reconciled to this state of dependence for the sake of Christ.

Moreover, the *vow* does not imply the obligation to abstain from using things for which one has received permission, even though such things may not be altogether necessary or really useful, but the *virtue* prompts religious to do away, at times, with things which are not necessary, even though permission for retaining them might be obtained.

5. It is clear, therefore, that whether we consider the internal or the external practice of religious poverty, the virtue gives to religious a wider scope of action than the vow. But we should remember that the virtue, as such, does not oblige under penalty of sin. The sin against the virtue of poverty begins when one violates the vow, because one has not taken up the obligation to practice the virtue of poverty beyond what is the object of the vow. We say that the virtue *as such* does not oblige under pen-

alty of sin, because even in matters which do not come under the vow, the omission of the practice of the virtue of poverty might at times be sinful owing to other causes, such as inordinate attachment to the things of the world, vanity, etc., but usually in these cases the sin would not be a grievous one. Moreover, while it is highly commendable not to be satisfied with the mere fulfilment of the vow and to strive to acquire the perfection of the virtue, this must always be done with prudence and moderation. The practice of the virtue of poverty should never be carried to such an extent as to become the source of anxiety (especially in the case of persons who have a scrupulous conscience) or to interfere with the observance of common life or with the rules of religious decorum. Let the first concern of religious be the exact fulfilment of the *vow*. In regard to the *virtue*, the fulfilment of the vow *accompanied by complete conformity of the will* is already a great act of *virtue*. Besides this, let them follow the rules of prudence and discretion. Usually it is safer to strive after the acquirement of the virtue by endeavoring to foster the interior spirit of poverty and being fully reconciled to the inconveniences to which the practice of the vow and of common life exposes religious, rather than by multiplying external supererogatory acts. Ordinarily, more than this should not be done (at least in the case of beginners) without the advice of an experienced director.

III. Subject Matter of the Vow

6. As to the *subject matter* of the vow, we said above that by this vow religious pledge themselves not to exercise the right of *ownership* without the superior's permission, or in other words that they deprive themselves of the independent use of *property*. Accordingly, by the vow of poverty one gives up the independent use of *money*, and of what in human commerce has a value which can be represented by money, as lands, houses, farms, bonds,

shares in a stock company, different articles of food and clothing and the like. On the contrary, one's honor and reputation, the use of one's talents, the application of a Mass for a definite intention, do not fall under the vow, because such things do not belong to the class of property or temporal goods. Incidentally, however, the use of these things may be connected with the vow when, namely, together with their use, there is implied the disposal of what is worth money. Thus religious have the right to defend their honor and reputation, but for this purpose they could not dispose of money for engaging a lawyer, without permission. They would not violate the vow of poverty by making use of their talents and skill on behalf of a friend without permission, but if they were to receive a compensation for their work, they would sin against the vow by retaining the money thus acquired, because this compensation goes by law to the community. The vow of poverty does not oblige a religious priest to ask permission from his superior for offering a Mass for his relatives and friends, but it obliges him to hand over to the superior the stipends which he may receive for Masses.

7. In keeping with the definition of this vow, the *acts* by which the vow of poverty is violated are those which of their own nature imply the exercise of the right to ownership whenever they are performed without the superior's permission. These acts are chiefly: retaining, using or giving away; buying, selling, or exchanging; borrowing or lending.

Accordingly, there is a violation of the vow in the following cases: A sister receives from outsiders articles of clothing as a present and without permission uses them. She receives money from externs and without permission procures with the money what she wants, or she makes a present of it to someone else. She exchanges articles with another sister. She is allowed money by her superior for

a certain purpose and uses it for a different one. She receives from her superior money for a definite purpose and saves it, all or in part, using for another purpose what she has saved. She receives money from a friend, with the understanding that she may do with it *what she pleases,* and without permission gives it away in charity or has Masses said with it. But if the money is given her with the express condition that it *must* be distributed among the poor or it *must* be used for Masses, she does not violate the vow by distributing the money among the poor or having Masses said, even though the donor left to her the choice of the poor or of the intentions.

IV. Permission of Superior

8. As to the *permission* which is required in order not to violate the vow of poverty, it may be *particular* or *general, presumed* or *implicit.*

A *particular* permission is that which is granted in particular cases, as the necessity of obtaining it arises.

9. A *general* permission is that which is given by superiors, so as to include several cases or instances of about the same kind. Thus, in many communities superiors give to all their subjects temporary permission to receive, use or retain *small* things; for instance, writing material and the like. In such cases there is no need of having recourse to the superior each time, provided one does not go beyond the limits of the general permission, which is to be renewed at stated times.

10. A *presumed* permission takes place when, in the absence of a particular or a general permission, expressly given, one *reasonably judges* that the superior would readily grant the permission if he were asked. Ordinarily this happens when, according to the general rules of justice, equity and charity, immediate action is necessary or commendable and there is no time for recourse to the superior. At times it is difficult to decide whether there is sufficient

reason for presuming permission, and religious should not proceed rashly in acting on presumed permissions. Lest religious deceive themselves, it is well to acquaint the superior of what they have done after they have acted on a presumed permission. In fact, if this notification is prescribed by the constitutions, it must be made, though not necessarily under penalty of violating the vow of poverty.

11. Several authors treat also of *implicit* permissions. They describe an *implicit* permission as one which, though not given in express terms, is by its own nature or by custom *connected* with another permission which has been given expressly. Thus, the express permission to travel *implicitly* includes the permission to procure from the bursar the means which are necessary for the journey. The permission obtained by a sister to make a present to another sister whom she has mentioned in particular to the superior, includes permission for the other sister to accept it. The permission to procure a certain number of pious articles, such as medals, pictures, etc., which are evidently meant for distribution, implies the permission to give them away. Of course such an implicit permission is always sufficient. One should, however, be careful neither to interpret the permission which is given expressly too broadly, nor to be rash in judging that the other permission is necessarily connected with it.

12. Before closing this section on the various kinds of permissions on which religious may act in the matter of poverty, the following remarks may be added:

Permissions obtained by mere fraud or through false representation are null and void. If, however, among the reasons which are false there is one which is true and which is of itself sufficient to determine the superior to grant the permission, no invalidity is incurred.

When permission is refused by a superior, it may be granted by a higher superior, but the religious must acquaint the higher superior of the refusal, if the latter

inquires about it or the constitutions so prescribe. The same holds when permission has been refused by a higher superior and one applies to a lower superior; that is, the latter may grant the permission, unless, by order of the higher superior or by virtue of some enactment of the constitutions, the faculties of the lower superior do not extend to cases in which the petitioner has been refused permission from a higher superior.

As is explained in the article on RELIGIOUS PROFESSION, if religious receive money or property by will, legacy or as a *personal donation*, probably they do not need special permission for accepting what they have thus received. But without violating the vow of poverty they cannot, without permission, use it, in full, or in part, or retain it in their own keeping indefinitely, or make use of the income derived therefrom. Their obligations in regard to the appointment of an administrator and to the disposal of the revenues are explained in the same article on RELIGIOUS PROFESSION.

V. GRAVITY OF VIOLATION OF VOW

13. In noting the difference between the *vow* and the *virtue* of poverty, it was remarked that the violation of the virtue does not, by itself, constitute a sin, while, on the contrary, the violation of the vow is always a sin. This sin, however, is not always *mortal* and the question arises: When is the violation of the vow a *mortal* sin; when is it only a *venial* sin? Before answering this question, as far as it can be answered in a work of this kind, we must remember that, while violation of the vow is always a sin against the virtue of *religion*, it may imply also a sin against the virtue of *justice*. Violation of the vow is always a sin against *religion*, because it always amounts to a breach of promise *made to God in His honor*. But it may also imply a sin against *justice*, and this happens whenever the action interferes with the right of ownership vested in the commu-

nity and thus is, in some measure, detrimental to its temporal welfare.

The following examples will make these two points clear: If a sister disposes of her own property without permission, she violates her vow and commits a sin against *religion,* because she has promised God not to make use of temporalities without the permission of her superiors; but she commits no sin against *justice,* because the property in question is her own and the community has no right to ownership of it. If, however, without permission, she disposes of the property which belongs to the community, by retaining, for instance, money given her by externs as a compensation for services rendered them, *besides sinning against religion,* she commits a sin against *justice,* precisely because she violates the right which the community has to that money.

14. We have called the attention of the reader to the fact that in violation of the vow, besides the sin against the virtue of religion, there may be implied a sin of injustice, because, having this in view, it is easier to understand the doctrine of authors on the gravity of the sin against the vow of poverty. The rule which is often given in this matter is that the violation of the *vow, as such;* namely, in so far as it is a sin against the virtue of *religion,* is a *mortal* sin, when, if the action were also *unjust,* the sum unduly used would be sufficient to constitute a grievous sin against the virtue of *justice.* In other words, the gravity of the sin against *justice* measures the gravity of the sin against the *vow.* Thus, for example, in the cases in which the appropriation of five dollars constitutes a mortal sin against justice, the disposal of the same amount constitutes a mortal sin against the vow.

15. It is clear that the application of this rule calls for the question: What sum must be reached before committing a mortal sin against *justice?* It is rather difficult to give to this question an answer that may be easily applied

to all particular cases, because the gravity of the injustice depends on so many different factors, such as the financial condition of the community, the number of religious in the community, the quality of the misappropriation, finally, the unwillingness of superiors to allow the action which is unjust. The *poorer* and the *smaller* a community is, the smaller is the sum sufficient for inflicting a serious pecuniary injury on it; misappropriation of *money* is more likely to do serious damage to the community than the undue appropriation of *food* and *clothing;* finally, superiors are more unwilling that misappropriation be effected for the benefit of *externs* than for the benefit of other *members of the community*. The sin of injustice will amount to a mortal sin, when, taking into consideration these various points as they happen to be verified in a particular case, the misappropriation inflicts such damage on the community and religious discipline, that under the circumstances, any superior would feel seriously grieved at the unjust action and would be justified in imposing a severe punishment on the culprit.

16. The rule given above; namely, that the gravity of the sin against the vow is measured by the gravity of the sin against justice, is not held in exactly the same way by all authors. But, for practical purposes, their various views need not be discussed here. Practically, when religious go to confession, it is sufficient for them to mention the action by which they have violated poverty, and they are in no way supposed to refer to the two formalities under which the same action may have been sinful. Here suffice it to say that the above given rule need not be interpreted so strictly in the cases in which religious of simple vows violate poverty by using, without permission, what is *their own property*. In such cases, before committing a mortal sin against the vow, a much larger sum must be reached than that which, if the action were unjust, would be sufficient for committing a mortal sin against justice.

(Vermeersch, *De Religiosis,* I, n. 266. Suarez, *De Religione,* tract. X, lib. iv, c. 6, n. 4.)

82. PREACHING

1. The *faculty* to preach the Word of God to the faithful within the limits of a diocese is granted only by the Ordinary of the place. (Can. 1337.)

2. The *faculty* for preaching:

(*a*) To religious who are *not exempt,* whether they belong to a *clerical* or to a *lay* institute, or

(*b*) To religious who are *exempt* but who belong to a *lay* institute, may be given exclusively by the Ordinary of the place.

As to the power of *choosing* the preacher from among those who have faculties:

In the case of *non-exempt clerical* institutes and of *exempt lay* institutes, the choice rests with the religious superior, and, in *lay* institutes, it devolves on the local Ordinary, if the superior fails in his duty of designating the person.

In the case of *non-exempt lay* institutes, the choice or appointment belongs to the Ordinary of the place. (Cans. 1338, §§ 2, 3; 529.)

3. The faculty to preach to *exempt* religious of a *clerical* institute as well as to the workmen, students, guests and sick persons who live in their house, is given by their superior according to the constitutions, provided, however, the sermon is not addressed at the same time to other persons who are not included in these classes. (Cans. 1338, § 1; 514.)

4. In all the cases in which religious need faculties from the Ordinary of the place, the latter should not, without a grave reason, refuse them to those who are presented to him by their superior, nor revoke them once they have been granted; especially should he abstain from revoking

them with regard to all the priests of a religious house at one and the same time. All this, however, has to be understood without prejudice to his right and duty to refuse or revoke faculties in the case of those who are unfit to preach, in keeping with the enactments of Canon 1340. (Can. 1339, § 1.)

5. Religious who have received faculties from the Ordinary of the place are not allowed to use them without permission from their superior. (Can. 1339, § 2.)

6. The Ordinary of the place and religious superiors are strictly bound in conscience not to give permission to preach to priests, whether secular or religious, even though exempt, unless their good morals and sufficient knowledge have been ascertained by means of an examination, except in the case of those whose fitness is otherwise known to them. (Can. 1340, § 1.) If, however, after having granted the necessary faculty or permission, they learn that a preacher lacks the necessary qualifications, they must revoke it, and if they have doubts concerning his knowledge, they must obtain positive proofs, sufficient to settle their doubts even, if necessary, by subjecting him to another examination. (Can. 1340, § 2.) In case the faculty or permission to preach has been withdrawn, a preacher may present a complaint to higher authorities, but his complaint does not suspend the force of the withdrawal, which will have its effect until the higher authorities decide otherwise. (Can. 1340, § 3.)

7. Priests, whether secular or religious, from outside the diocese, must not be invited to preach until permission has been secured from the Ordinary of the place where the sermon is to be delivered. The Ordinary of the place, on his part, shall not grant permission before having received from the Ordinary of the preachers favorable testimonials concerning their knowledge, piety and good morals, unless their fitness is known to him from other sources. In granting these testimonials, Ordinaries are strictly bound

in conscience to give their testimony truthfully. (Can. 1341, § 1.) The Ordinary whose testimonials are required is the Ordinary *of the place,* in the case of secular priests, and of religious belonging to a non-exempt institute; in the case of religious who belong to an exempt clerical institute, testimony must be furnished by their higher superior.

8. The Ordinary of the place has the right to preach in any church within the limits of the territory subject to his jurisdiction, even though the church be exempt. (Can. 1343, § 1.)

9. Moreover, unless there be question of large cities, he may forbid that sermons be preached to the faithful (*a*) while he himself is preaching, or (*b*) while, for some public and extraordinary reason, he wishes others to preach to the people in his presence. (Can. 1343, § 2.)

83. PRECEDENCE, RULES OF

1. Canon 491 lays down the *rules of precedence* for the *secular clergy, religious institutes,* whether clerical or lay, and *secular lay persons.* The order in which these various classes come is as follows:

2. (1) The *secular* clergy. However, religious of clerical institutes take precedence *in their own churches,* though not over a cathedral or a collegiate chapter. (Can. 491, § 2.)

(2) (*a*) *Clerical religious institutes,* and among them:

(i) The *regular canons;* as the Canons of the Most Holy Saviour.

(ii) *Monks,* as the Benedictines.

(iii) *Other regulars,* as the Friars Minor, the Friars Preachers, the Jesuits, etc.

(iv) *Pontifical congregations,* as the Redemptorists, the Passionists, the Congregation of the Holy Cross, etc.

(v) Diocesan congregations. (Can. 491 § 1.)

(*b*) *Lay religious institutes.*

(3) *Secular lay persons.* (Can. 491, § 1.)

3. When several religious communities *of the same class* come together, for instance: (*a*) the Canons of the Most Holy Saviour and the Premonstratensians; (*b*) the Benedictines and the Cistercians; (*c*) the Augustinians and the Jesuits; (*d*) the Redemptorists and the Congregation of the Holy Cross, etc., the precedence belongs to that community which has in its favor a *peaceful quasi-possession* of the exercise of this right; that is, which, without being molested, has in the past preceded the other communities. If there is no sufficient evidence of this peaceful quasi-possession, precedence is due the community which has seniority of local existence. (Can. 491, § 1, together with Can. 106, n. 5.)

4. These rules determine the order of precedence for the cases in which the members of these various classes proceed in a body, as happens in processions and ecclesiastical or liturgical functions. In other cases they follow the general and the peculiar rules that are established in the Code for physical persons. In keeping with the general rules, what gives precedence to ecclesiastical persons is:

(1) The *authority* which one has over the others who are present.

(2) Among those who have no authority over one another, the higher *rank* to which they belong.

(3) Among those of the same rank, the higher *order* which they have received.

(4) Among those who are of the same rank and have the same powers of order, *seniority by rank;* that is, precedence is due to him who was promoted to the office of the same rank *before the other.*

(5) Among those who are of the same rank, have the same order and were promoted to an office of the same rank at the same time, *seniority by ordination,* unless the one who is not senior by ordination was ordained by the Roman Pontiff.

(6) Finally, when all the above given titles are equal, *seniority by age.* (Can. 106, nn. 2, 3.)

5. If in particular cases a dispute arises in the matter of precedence, and there is no time for delay, the Ordinary of the place has the right to settle the dispute. This right of the Ordinary of the place extends to disputes of *exempt* religious in cases in which these are present *in a body.* An appeal against the decision of the Ordinary of the place is allowed, but it has no *suspensive* effect. Consequently, in spite of the appeal, his decision must be followed for the time being, although the *rights* of the appellant will not be affected thereby. (Can. 106. n. 6.)

6. Precedence among the members of the same religious institute is determined by the constitutions. If the constitutions are silent on this point, it is determined by legitimate custom. Cases which cannot be settled even by custom must be decided according to the general rules on precedence prescribed by law. (Can. 106, n. 5.) (See above, ¶ 4.)

84. PRIVATE PROPERTY

1. This article deals with the various questions connected with the right of ownership belonging to religious, considered as *private* persons. As to the right of ownership belonging to religious *communities,* as such, see COMMUNITY PROPERTY. These questions vary as the members of religious institutes are *novices, professed* of *simple* vows, or *professed* of *solemn* vows.

I. *Novices.*

II. *Professed of simple vows.*

III. *Professed of solemn vows.*

I. Novices

2. Novices are forbidden, under pain of nullity, to *renounce* their benefices or their property and to enter contracts which, of their nature, may prepare the way for a loss of property. (Can. 568.)

They are, then, first, forbidden to *renounce* their property; that is, to give up the right they have to it altogether, without receiving the equivalent in money or other property. They are forbidden to make a *gift* of their possessions, not to *sell* them and *invest* the price in other commodities. However, both ancient and modern commentators allow *small* donations and *moderate* alms, to be made, of course, with the superior's permission.

Moreover, they are forbidden to enter contracts which pave the way to a loss of their possessions. Hence they cannot put mortgages on them, pledge them, make promises, especially under oath, to renounce them in the future, etc.

All this is forbidden under pain of *nullity,* so that, if they act against the law, their transaction would be invalid in conscience and in the eyes of the Church.

The reason for this law is to forestall hasty steps which might easily be taken in the fervor of the novitiate. An untimely renunciation of the property once possessed might also impair the freedom, which novices must enjoy, to leave the novitiate before taking their vows.

3. While the law forbids all novices to *renounce* their property, it obliges novices of religious *congregations* to make a *will* of all that they possess or may possess in the future. (Can. 569, § 3.)

The law obliges novices of religious congregations to make a *will,* in order thus to preclude the possibility of difficulties and law-suits which might take place were a novice or a professed to die without a will. On the other hand, a *will* does not interfere with the freedom of novices

to return to the world, since a will has effect only after death, and by a will novices do not cease to be the owners of their possessions. In the case of women, the will does not, and cannot, extend to the *dowry* which, on the death of a religious, becomes the absolute property of the institute. (See DOWRY.) In the case of novices who are not of the requisite age for making a will, according to the law of the land, let them make a will as the present enactment requires and ratify it with the formalities of the civil law when they are of age, after having made their profession.

4. This law confines its provisions to novices of religious *congregations,* and does not oblige novices of institutes of *solemn* vows. Should a will be made by novices in an institute of solemn vows, the will would be valid, but it would have effect only if the testator were to die during the three years of simple profession, because at the time of solemn profession he has to make a renunciation of all that he has. (See below, ¶ 20.)

5. The prohibition to *renounce* property is followed by enactments which deal with the *administration* of the same property and the *disposal* of the corresponding *revenues.* Accordingly:

(*a*) Before they take their vows whether perpetual or temporary, novices must free themselves of the administration of their property by appointing an administrator in their place. The law gives them entire freedom in choosing the person who is to fill this office. (Can. 569, § 1.) The administrator thus chosen has power to perform all the acts which are connected with his office, by making necessary improvements, defending the legal ownership, securing titles, etc. The owner of the property cannot interfere with the management of the administrator, but it seems that he is not forbidden to appoint someone to whom, at stated times, the administrator must give an account. Should the sale of part of the property be necessary, the permission of the Apostolic See need not be sought, as the

property is owned by a religious, as a private person, and is not, therefore, *ecclesiastical* property. However, the money derived from the sale cannot be disposed of in *donations,* but must be used for improving the estate or procuring safer investments. If the administrator neglects his duty, another may be appointed in his place by the owner. (See below, ¶¶ 14, 15.)

6. The act of cession of the administration should not be limited to a definite period of time, as, for instance, one, two, or three years, but must extend over the whole period of simple vows. Accordingly, (*a*) it remains in force as long as the simple vows last and does not need to be renewed when the temporal vows are renewed or when the perpetual profession is taken, since there should be no interval between the first and second periods of temporary vows and between the last period of temporary vows and perpetual profession. (Can. 577, § 1, 575, § 1, 34, § 3, n. 5.) On the other hand (*b*) it ceases to have force when the simple vows cease, whether they cease because the solemn profession takes place, or because a religious is freed from them altogether and leaves the religious state.

7. (*b*) Moreover, unless the constitutions provide otherwise, novices must at the same time (when they appoint an administrator) freely dispose of the use and usufruct of their property. (Can. 569, § 1.)

If the constitutions are silent on this point, the provision of this canon must be observed. This provision (*a*) imposes on novices the obligation to appoint one or more beneficiaries of the use and usufruct of their property; (*b*) it gives them the right to do this; that is, to choose the beneficiary *freely;* and (*c*) it requires that this disposal be permanent, by covering the whole period of simple vows, as has just been said in regard to the appointment of an administrator. The terms *use* and *usufruct,* both denote the right to benefit by the profits that may be derived from property, though they differ as to the extent to which this

right is enjoyed. Usufruct is the right to draw *all* the profits, utility and advantages which a thing may produce, while use gives a more limited right. We comprise both under the term *revenues*. The beneficiaries of the revenues may be several; they may be private *individuals,* or *corporations,* and the institute itself may be chosen.

Finally, let it be noticed, the law is so worded that, apart from contrary enactments of constitutions, there is nothing to prevent novices from ordaining that their revenues accrue to their principal. While in regard to the *administration* of their property, the law requires that novices *give* it *up* (*debet cedere*), in regard to their *revenues,* it only enacts that they must *dispose of* them (*debet disponere*). As to their revenues, therefore, all that the novices are obliged to do is to dispose of them, and one of the ways in which one may dispose of one's own revenues is surely to see that they accrue to the principal.[1]

8. If the constitutions provide otherwise, the provisions embodied in them must be observed. These provisions may modify the general provision just mentioned in different ways. They may order that all the revenues, or part of them, should be renounced in favor of the institute; or they may require that, in disposing of their revenues, novices hear the advice, or obtain the consent of superiors, or (as it would seem), they may decree that the disposal should cover only a definite period of time; for instance, one year, after which religious may reappoint the same beneficiaries, or change them, at the end of each successive period. This interpretation of the clause " unless the constitutions provide otherwise " is suggested partly by the wording of the clause itself taken in the context and partly by the answer given by the Pontifical Commission on the Code, October 16, 1919. (*Acta Apostolicae Sedis,* XI, 478.)

[1] Larraona, in *Commentarium pro Religiosis,* I, p. 338.

II. Professed of Simple Vows

9. Professed of simple vows, whether temporary or perpetual, retain the ownership of what they possessed before they made their profession, and are capable of acquiring new property, unless the constitutions enact otherwise. (Can. 580, § 1.)

The constitutions, then, may enact that by taking simple vows religious lose the proprietorship of what they possessed and become incapable of acquiring new property. Here it is important to notice to what kind of enactments the Code refers by the clause "unless the constitutions enact otherwise." By this clause the Code intends enactments by virtue of which religious, when taking simple vows, *are deprived* of the possessions they acquired and *become incapable* of acquiring more; the clause does not refer to enactments *obliging* religious with simple vows to *give* to the institute what they possess and may possess afterwards. These two kinds of enactments are different. Enactments of the former kind take away from religious the right of proprietorship without any intervention on their part; enactments of the latter kind do not touch that right directly, but simply *bind* religious to *renounce* the property over which that right is exercised. The enactments which are referred to in the clause "unless the constitutions enact otherwise" are those of the former kind. Enactments of the latter kind are not referred to in that clause and, in the case of religious *congregations,* are contrary to Canon 583. In fact, Canon 583 forbids the professed of religious congregations to *renounce* the property which they possess, and it has no clause allowing the constitutions to enact otherwise.

10. In regard to enactments of the former kind, in order that they may be invoked as an exception to Canon 580, § 1, they must be so worded as to make it clear that they render a religious incapable of owning property. Often

the thing which is forbidden in the constitutions is the *free* disposal of one's possessions, or the right to act *as proprietors*. These and similar expressions do not always do away with the right of ownership, but often simply remind the professed that in exercising the right of ownership they depend on superiors.

11. It has been said above that the professed of simple vows are capable of acquiring new property, unless the constitutions enact otherwise; but what is the property which, in point of fact, they do acquire? They do not acquire (*a*) what they receive as the *fruit of their industry* or (*b*) what is given to them *in view of the institute,* but they acquire what they receive *under any other title* and is given to them as *private* persons. (Cans. 580, § 2, 569, § 2.) Accordingly, a sister (*a*) does not acquire the proprietorship of what is given to her in compensation for work done as a teacher or as a nurse, nor (*b*) of what is given to her with the intention of lending financial help to the community, or from the motive of doing honor to the state to which a sister has consecrated her life; but she acquires the ownership of what she receives by will, legacy or donation, conveyed to her as a *personal* gift.

12. Probably religious of simple vows need no special permission for *accepting* what, as has been explained in the preceding paragraphs, the law itself allows them to acquire, unless the constitutions expressly provide otherwise. In any case, this does not mean that they can *use* it freely, of their own will.

13. First, without permission they cannot *use* anything which they may have accepted. They may accept a certain sum of money, but in order to *dispose of it in any way,* they must have recourse to their superiors.

Moreover, if they wish to *retain* what they have acquired, they may do so, but in regard to the *administration* of what they have and the *disposal of their revenues,* they must observe the requirements of the law on these points,

and the law on these points, even in reference to the *freedom* allowed to the *professed of simple vows* in this matter, is the same as that which deals with the appointment of *administrator* and *beneficiary* in the case of *novices*. (Cans. 580, § 1, 569, § 2.) (See above, ¶¶ 5–8.)

14. As to the power of *changing* the administrator of property and the beneficiary of revenues, Canon 580, § 3 allows the professed of simple vows to make both changes, but, unless the constitutions leave them altogether free, it requires the permission of the superior general, or, in the case of nuns, of the Ordinary of the place, together with the permission of the regular superior for nuns who are subject to regulars. However, if this change is made in favor of the religious institute, it cannot be such as to affect a *considerable part* of the property. (Can. 580, § 3.) The Code does not define what must be looked upon as a *considerable* part. Probably it can be said that usually what surpasses half the whole income is a considerable part, while on the contrary what is below one-fourth or one-fifth is not a considerable part. As to amounts which fall between these two limits, the point is more doubtful and the decision may be left to superiors. (See Charles Augustine, "Commentary on the New Code of Canon Law," Vol. III, p. 280; Vermeersch-Creusen, *Epitome Jur. Can.*, I, n. 585; Prümmer, *Manuale Jur. Eccl.*, 9, 217.)

15. In allowing the professed of simple vows to change administrator and beneficiary under the conditions just explained, the Code refers to the appointments that were made *after the taking of vows* (Cans. 580, § 3, 569, § 2) and *expressly* contains no concession in regard to the appointments that are made *during the novitiate*. (Can. 569, § 1.) But, arguing from the whole context and purpose of the law in this matter, authors are of the opinion that the legislator did not intend to exclude from his concession the faculty to change the appointments which were

made before the taking of vows. (Larraona, in *Commentarium pro Religiosis,* II, p. 41; Vermeersch-Creusen, *Epitome Juris Ecclesiastici,* I, n. 585.)

16. When a change is thus made, the provision affected by the change, whether this has reference to the administrator or to the beneficiary, ceases to have force if for any reason the professed of simple vows leave the institute. (Can. 580, § 3.)

17. The enactments explained so far are the same for all the professed of simple vows; the following differ according as these professed belong to a *congregation* or to an *order.*

Religious with simple vows, belonging to a *congregation,* are forbidden to deprive themselves of their property by gratuitously conveying it to others during their lifetime. (Can. 583, n. 1.) As was explained above (see ¶ 2) this prohibition exists also for novices, but with a twofold difference. The prohibition affecting novices is not restricted to members of *congregations,* and acts performed against the law are *invalid,* whereas the present prohibition affects only members of congregations, and if the law is violated, the acts thus performed are unlawful, but not null and void.

It may be safely held that the law does not contemplate *small* donations made for a reasonable cause, and with the superior's permission.

18. Making a *will* is not among the acts forbidden by the law under consideration. According to Canon 569, § 3, the will must have been made during the novitiate. (See above, ¶ 3.) But what if it was not made at that time? If it was not made because the novitiate was entered upon before the Code went into effect, the right to make it still remains. If it was omitted during a novitiate made after promulgation of the Code, according to some authors permission from the Holy See is necessary for making it after having taken vows, except in cases of

urgent necessity. These authors argue from the similarity between this case and the enactment of which there is question in the next paragraph. But the obligation to apply to the Holy See is not certain.

19. The professed of simple vows in religious congregations cannot change the will which they made during the novitiate, without due permission. This permission must be obtained from the Holy See, or, in urgent cases, when there is no time to apply to the Holy See, it must be obtained from one of the higher superiors, or, if even this cannot be done, from the local superior. (Can. 593, n. 2.)

20. Religious with simple vows, belonging to an *order* (*a*) within two months before they make their solemn profession must make a renunciation of all the property which they actually own at that time; (*b*) but before that period of two months they cannot validly renounce their property; (*c*) unless by particular indults of the Holy See they are allowed to *anticipate* the time of their renunciation (contrary to [*b*]) or to *retain* the proprietorship of their possessions even after having taken solemn vows (contrary to [*a*]); (*d*) in making this renunciation they are free in the choice of a beneficiary; (*e*) the renunciation must bear the condition that the solemn profession will actually take place; (*f*) after the profession has taken place, whatever formalities are required in order that the renunciation may have force in civil law, must be done. (Can. 581, §§ 1, 2.)

21. According to the law mentioned in the preceding paragraph this renunciation must embrace all that the professed of simple vows own before their solemn profession. What may possibly come to them after they have taken their solemn profession, is not included in this renunciation, and falls under the provisions of the next Canon, 582. The question, however, can be raised, whether in this renunciation a religious may include what he is *certain* to receive by *inheritance* after his solemn profes-

sion because he is recognized by the law as a necessary heir who cannot be excluded from a will. Before the Code, in certain institutes, the renunciation could be made so as to include such future acquisitions. It seems probable that the same may be done since the Code went into effect because the property which a religious is certain to receive as a necessary heir may in a certain sense be actually called his own, though not yet in his possession.

III. Professed of Solemn Vows

22. Professed of solemn vows are incapable of retaining what they owned before their solemn profession, and of acquiring new possessions. (Can. 579.) If at the time they make their solemn profession they own property, this is acquired by the beneficiary in whose favor they made their renunciation.

23. In regard to the property which is conveyed to them in any way after having made their solemn profession:

(1) If the professed belong to an order that is capable of owning property, it is acquired by the order, or the province, or the community, according to the constitutions.

(2) If they belong to an order that is incapable of owning property, as in the case of the Friars Minor or the Capuchins, the proprietorship is acquired by the Holy See.

Both these provisions must be understood with the restriction: unless particular indults of the Apostolic See regulate otherwise. (Can. 582, nn. 1, 2.) (See above, ¶ 21.)

85. PRIVILEGES

I. *Definitions and divisions.*

II. *Present status of religious in regard to privileges.*

III. *Privileges which religious have in common with clerics.*

I. Definitions and Divisions

1. A *privilege* is a particular, or private law, granting some special favor.

A privilege is called a *law,* not because it is such in the strict sense of the term, but because, like a law, it implies a certain *stability,* in so far as it grants a faculty *permanently* or at least for a long period of time. A faculty which is not granted in a stable manner, but only for a particular occasion, is not a privilege properly so called.

It is called a particular, or *private* law, because it affects only *individuals,* or *moral* persons, or a *certain number* of them, and not all Christians or not even a *general* class of Christians. If a grant extends to a *whole class* of the faithful, it is a true privilege, but only in a broader sense. Thus, the private oratory granted by the Holy See to a family is a privilege in the strict sense of the term; whereas the faculty of receiving Holy Communion without fasting, granted by the Code to *all the sick* who fulfil the requirements of Canon 858, § 2, is a privilege in a broader sense.

2. If the favor which is granted by a privilege consists in exemption from an existing law, the privilege is called *contra jus* or against the law; if it merely consists in the faculty of performing an act for which the authority of the legislator is necessary, it is called *praeter jus,* or beyond the law. Thus, for instance, by law, novices cannot be admitted to the first temporary profession before having completed the sixteenth year of age. Should the Holy See grant an institute the faculty of admitting novices to their profession at an earlier age, this apostolic concession would amount to a privilege against the law, because it would consist precisely in exempting that institute from an existing law. On the other hand, the faculty, for instance, of blessing articles and attaching certain indulgences to them, is a privilege above, not against the law,

because this grant does not consist in an exemption from an existing law, but it simply gives the power to perform an act for which the authority of the legislator is required.

3. Privileges may be acquired *directly* or by *communication.* They are acquired by *communication,* when the legislator grants to a person the faculty of enjoying in common with others the privileges which already belong to these others. Privileges are acquired *directly,* when they come from a direct concession; namely, when the concession expressly contains the privileges themselves, and not the faculty of enjoying privileges already granted to others.

II. Present Status of Religious in regard to Privileges

4. Canon 613, § 1 mentions two classes of privileges which may be enjoyed by religious institutes. According to this canon, every religious institute enjoys only those privileges which (*a*) are contained in the Code, or (*b*) have been granted to it by a *direct* concession; in the future every *communication* of privileges is excluded.

5. Among the privileges which are granted to religious by the Code we may mention those which religious have in common with clerics. (See the following point of this article.)

6. As to the others, the canon recognizes those which are acquired *directly,* and excludes the acquirement of privileges by *communication.* In connection with the present canon, it is well to keep in mind also the contents of Canon 4, in which it is declared that privileges which were granted before promulgation of the Code remain in force, unless *expressly revoked* by some canon of the Code. Taking, then, both canons (4 and 613, § 1) into consideration:

(1) If before issuance of the Code an institute had *directly* received a privilege; for instance, that its members

might anticipate matins and lauds at 1.00 P.M., that privilege is still enjoyed by the institute, by virtue of Canon 4, which is not contradicted, but rather confirmed by Canon 613.

(2) On the other hand, if before the Code was issued, an institute which we may call A had received the faculty of sharing in the privileges of another institute which we may call B, by communication, and institute B *now* — since the Code went into effect — receives directly the privilege (for instance) that its members may be ordained at the end of the third year of theology, institute A does not acquire this privilege by *communication.* Nor can it invoke Canon 4 in its favor, because the faculty received before the existence of the Code — of enjoying by communication the privileges of institute B — has been at least partially revoked by Canon 613, § 1, which forbids the acquirement of privileges by communication *in the future.*

(3) But if institute A had received the faculty of enjoying by communication the privileges of institute B, and by the time the Code went into effect it had *already* acquired by *communication* some privilege already acquired directly by institute B, does institute A retain such a privilege (acquired by communication, but *before promulgation of the Code)?* According to the general terms of Canon 4, it would seem that it does retain it. According to Canon 4, privileges already acquired remain intact, unless expressly revoked by some canon of the Code. Now Canon 613, § 1 does not revoke, at any rate indisputably, privileges which are the effect of a communication that took place *in the past,* inasmuch as it only forbids the acquirement of privileges by communication *in the future.* (Vermeersch-Creusen, *Epitome Jur. Can.* I, n. 615.)

7. Notwithstanding the general prohibition of communicating privileges among different institutes, as enacted in § 1 of Canon 613, § 2 of the same canon declares that

whatever privileges belong to an *order of regulars* are enjoyed also by the nuns of the same order, in so far as nuns are capable of enjoying them. The nuns referred to in this canon are the members of an institute in which solemn vows must be taken *by virtue of the constitutions,* whether the nuns *actually* take solemn or only simple vows. (Can. 488, n. 7.) They all enjoy the same privileges which belong to the order of men of the same rule, whether they are subject to this order, or are subject to the Ordinary of the place. Thus the Discalced Carmelites enjoy the privileges of the Carmelite Fathers; the Poor Clares enjoy the privileges of the Friars Minor. The limitation added by the Code; namely, that nuns enjoy only the privileges of which they are capable, is evident. Thus the privileges which refer to the celebration of Mass, distribution of Holy Communion and the like cannot be enjoyed by women, who are incapable of performing these acts; whereas they may enjoy the privileges which refer to the calendar to be followed in reciting the Divine Office, exemptions from laws, etc.

III. Privileges which Religious have in common with Clerics

8. All religious, even lay brothers and sisters, as well as novices, enjoy the privileges which the law grants to clerics in Canons 119–123 (Can. 614) as follows:

9. The privilege, called *canonis,* or privilege of the *canon,* because originally contained in a canon of the Lateran Council under Innocent II. The purpose of this privilege is to protect clerics from personal injuries. (Can. 119.) Accordingly, all are forbidden, under penalty of excommunication, to do unjust *bodily* injury to clerics, either by striking or by unjustly laying hands on them in any other manner. In order that excommunication be incurred, the action must be *unjust;* hence the penalty is not incurred

if one strikes a cleric in self-defence, because he has *himself* been unjustly attacked by a cleric. Moreover, the unjust action must be aimed, more or less directly, at the *body;* if the honor of a cleric is attacked only by word or gesture, the excommunication does not take place. (See SANCTION, ¶ 7.)

10. The privilege called *fori,* or literally, the privilege of the *court,* because it gives clerics a privileged court. (Can. 120.) Accordingly, anyone who has a case against a cleric must have recourse to an *ecclesiastical* judge, unless for some countries the Holy See has decreed otherwise. In order to bring a cleric before a *civil* court, special permission from competent ecclesiastical authority is required. In the case of Cardinals, Legates, Bishops, Abbots so called *nullius* (who, as Ordinaries, govern in their own name a territory that belongs to *no diocese*), the highest superiors of religious pontifical institutes, the higher officials of the Roman Congregations in matters which belong to their office, the competent authority is the Holy See; in other cases the competent authority is the Ordinary of the place where the case is to be tried. The Ordinary should not refuse permission, unless he has some just and grave reason for so doing. This is true especially when the plaintiff is a layman and whenever the Ordinary has tried in vain to induce the parties to come to some agreement.

11. The privilege of personal *immunity,* by which clerics should be free from military service and from public offices which are incompatible with the clerical state. (Can. 121.) Clerics are supposed to devote all their energy to the spiritual welfare of Christians, and, as far as possible, must abstain from occupations which are not in keeping with the meekness and charity that should characterize the minister of Christ. They must avoid the exercise of offices which are apt to distract them from the pursuits of their calling. From the time of Emperor Constantine

civil governments have recognized the fairness of these exemptions, although in modern times, in several countries, they have either been disregarded or else misunderstood in cases of misapplied principles of equality and democracy. It is to the credit of our country that during the late war our government was most generous in this regard by freeing the clergy from military service, in order that they might more freely devote themselves to the spiritual welfare of citizens, both at home and on the battlefield. In this connection, it is well to remember that while the Church insists, as far as she can, upon having her priests free from civil office and military service, she would not be slow in urging them to take up arms in defence of their country if circumstances made their cooperation indispensable.

12. The last of the privileges which religious have in common with clerics is that called of *competency, beneficium competentiae.* (Can. 122.) By virtue of this privilege, if a clergyman has a debt which he cannot pay, he must be allowed to keep what, in the opinion of a prudent ecclesiastical judge, is necessary for his decent support without, however, being freed from paying the whole of his debt, when he is able to do so. Canon 123 declares that clerics are not allowed to renounce these privileges.

13. Besides these privileges, the Code contains a few others which are explained in articles on EXEMPTION; INDULTS, DIOCESAN; COLLECTING; ABBOT. (See also RULES AND CONSTITUTIONS.)

86. PROCESSIONS, SACRED

1. *Sacred processions* are solemn supplicatory ceremonies, which the faithful, led by the clergy, perform, going from one sacred place to another, for some religious purpose. (Can. 1290, § 1.)

2. Processions are *ordinary* or *extraordinary.* The

former are those which are held on certain days of the year, in keeping with the rules laid down in liturgical books, or according to local customs; for instance, on the Feast of the Purification and on Palm Sunday. The latter are those which are prescribed on other days for some public cause. (Can. 1290, § 2.)

3. Religious institutes of men, even though exempt, are obliged to take part in the solemn procession which is held on the Feast of Corpus Christi, according to Canon 1291, § 1. The law does not include in this obligation those regulars who are permanently bound to strict enclosure; for instance, the Carthusians and the Camaldolese, nor those who live three miles away from the city where the procession is held. (Can. 1291, § 1.) The same religious must take part in the extraordinary processions which the Ordinary of the place may have ordered, as well as in the ordinary processions, as the case may be. (Can. 1292.)

4. During the octave of the Feast of Corpus Christi (*a*) regulars may have their own procession outside the limits of their church, (*b*) subject, however, to the regulations of the local Ordinary in places where other churches possess the same right. (Can. 1291, § 2.) Besides this procession, religious, even though exempt, may not hold their own processions outside their church and cloister without the permission of the Ordinary of the place. (Can. 1293.)

87. PROCURATOR GENERAL

1. All pontifical institutes of men, whether of simple or solemn vows, must have a *general procurator* whose office is to represent the institute in its dealings with the Holy See. The appointment of this official must be made according to the constitutions; and if these define how long he is to remain in office, superiors may not remove him

before the expiration of his term without first having consulted the Apostolic See. (Can. 517.)

2. This procurator must be a member of the institute whose affairs he has to transact, and should have his habitual residence in Rome. (S. Congregation of Religious, June 4, 1920. *Acta Apostolicae Sedis,* XII, 301.)

88. PROFESSION, RELIGIOUS

I. *Definition and divisions.*

II. *General requisites.*

III. *Temporary and perpetual.*

IV. *Ceremonial.*

V. *Renovation of vows.*

VI. *Candidates subject to military service.*

VII. *Effects.*

VIII. *Invalid.*

I. Definition and Divisions

1. Religious profession is the act of joining a religious institute by taking the three vows of poverty, chastity and obedience in it, while the superior of the institute accepts the vows in the name of the Church and receives the candidate as a member of the institute.

Besides the vows, which are promises made to God, religious profession implies an agreement between the individual and the institute, to work harmoniously in it for the attainment of Christian perfection and the end for which the institute was established. Accordingly, the individual assumes a twofold obligation: one towards God by virtue of the vows, another towards the superior, who represents the institute; while the institute assumes the obligation of treating the individual as one of its members

by looking after his interests, both spiritual and temporal, under the guidance of the Church, in accordance with its approved constitutions.

2. The profession is *temporary* or *perpetual, simple* or *solemn,* according to the nature of the vows.[1] (See Vows.)

[1] The profession referred to in this article is the regular profession which is made by novices *at the end of their novitiate.* But novices, *at the point of death,* may be allowed to make their profession, under certain conditions laid down by the S. Congregation of Religious. These conditions are:

1. Such novices must have begun their novitiate according to law.

2. Superiors who may admit them to this profession are: the *higher* superiors, according to the constitutions; the superior who is actually at the head of a house of novitiate; anyone else delegated by one of these superiors.

3. The formula to be used is that which is prescribed in the institute for regular professions and, if vows are taken, these must be pronounced with no mention of perpetuity or definite period of time.

4. Those who have made this profession share in all the indulgences, suffrages and graces which are granted to religious who die after having made their regular profession in the institute; moreover, they are granted a plenary indulgence.

5. Besides the privileges just mentioned, this profession has no other effect. Consequently (*a*) in case of death, the institute has no claim on the property of the deceased.

(*b*) If the novices who have made this profession recover before having completed the prescribed term of their novitiate, they are in the same condition in which they would have been had they made no profession, and therefore (i) they have full freedom to leave the institute; (ii) superiors may dismiss them; (iii) they have to finish the whole term of the novitiate, even though this term extends over a year; (iv) on the expiration of this term, if found worthy, they must make a new profession.

In the case of societies without vows whose members do not make the religious *profession,* but, after their probation, are admitted to the institute by a *promise* or an *act of consecration,* all that has been said in the preceding paragraphs of the *profession* allowed to novices at the point of death holds, under the same circumstances, for the *promise* or *act of consecration,* as may be the case. (S. Congregation of Religious, Sept. 10, 1912; Dec. 30, 1922. *Acta Apostolicae Sedis,* IV, 589; XV, 156.)

II. General Requisites

3. In order that a profession may be valid the following requirements must be complied with:

(1) *Candidates must have completed the sixteenth year of age for a temporary profession, and the twenty-first year for perpetual profession, whether this is simple or solemn.* (Cans. 572, § 1, n. 1; 573.)

In reckoning the age required, the day of birth is not counted. Hence those, for example, who were born on January 1, 1905, were not of requisite age for making a temporary profession until midnight between the first and the second of January, 1921. Accordingly, they were able to make such profession at any hour on January 2, or after. (Cans. 34, § 3, n. 3; 32, § 1.)

4. (2) *Candidates must have been admitted to their profession by the legitimate superior.* (Can. 572, § 1, n. 2.)

The necessity of such admission is evident from the definition and explanation of *profession* given above. It belongs to the constitutions to determine who among the major superiors has this power. It belongs to the same constitutions to define whether the superior requires the intervention of the chapter *or* of the council, but the intervention of one *or* the other of these two bodies is required by the law itself (*a*) when there is question of the first *temporary* profession which is *obligatory by the general law* (see below, requisite under n. 7), and (*b*) of the *perpetual profession.* (Cans. 543; 575, § 2.) What kind of intervention does the superior need according to law? In the case of *temporary* profession, obligatory by the general law, the superior, for the validity of the admission, needs the *consent,* while in the case of the *perpetual* profession, it is sufficient for the superior to hear the *advice* of one or the other of these bodies. (See canons just quoted.) In the case, however, of perpetual profession, which, in keeping with Canon 634, has to be renewed when

a religious, with the necessary permission, changes his institute (see CHANGE OF INSTITUTE, ¶ 6) the vote of the chapter is not merely *advisory,* but *decisive.* (Pontifical Commission on the Code, July 14, 1922. *Acta Apostolicae Sedis,* XIV, 528.)

Novices who have all the necessary qualifications cannot be refused admission to profession. If, at the end of the novitiate, it is doubtful whether they are fit subjects, profession may be delayed by the authority of one of the major superiors, who may order an extension of the novitiate, but this extension cannot exceed six months. (Can. 571, § 2; see SANCTION, ¶ 19.) The constitutions define which is the *major* superior with this right (whether the *general* or the *provincial*), and the Code does not require that the superior should act with the intervention of chapter or council.

5. (3) *The profession must have been preceded by a valid novitiate according to* Canon 555. (Can. 572, § 1, n. 3.) (See NOVITIATE, ¶¶ 1, ff.; 34, ff.)

6. (4) *It must be free from coercion and deception.* (Can. 572, § 1, n. 4.)

A similar condition is required for validity of admission to the novitiate. (See NOVITIATE, ¶ 3; SANCTION, ¶ 13.)

7. (5) *Tacit* profession is not valid. *The profession must be made in express terms.* (Can. 572, § 1, n. 5.)

The formula may vary, and it is sufficient to state in it that the candidate takes the three vows according to the constitutions and, to mention the term for which the vows are pronounced — whether, namely, they are taken for life or temporarily, and in the latter case, whether for one, two, or more years. In any case nothing that is embodied in the formula approved for each particular institute should be omitted.

8. (6) *It must be received by the legitimate superior according to the constitutions, or by someone delegated by the same superior.* (Can. 572, § 1, n. 6.)

The *Ordinary of the place* is not mentioned in the Code in this connection. According, however, to a declaration given by the Pontifical Commission on the Code, March 1, 1921, if in the formula embodied in the approved constitutions no mention is made of a *religious superior,* but only of the Ordinary of the place or someone delegated by him, it belongs to him, or his delegate, to perform this office of receiving the vows, as being thus legitimately appointed by the constitutions. (*Acta Apostolicae Sedis,* XIII, 178.)

9. (7) *The perpetual profession, whether solemn or simple, must have been preceded by a temporary profession according to* Canon 574. (Can. 572, § 2.)

The enactments contained in Canon 574, concerning this temporary profession, are explained in the following paragraphs.

III. Temporary and Perpetual (Profession)

10. (1) In every institute in which perpetual vows are taken, before making the *perpetual* profession, candidates must make a *temporary* profession, and this must be made in the house of the novitiate itself. This law of temporary profession, however, does not affect those who, with the authority of the Holy See, change from one institute to another according to Canon 634. (See Change of Institute, ¶ 6.) This profession must be made for *three* years, or for a longer period in the case of those who, after *three* years of temporary vows, have not attained the age required for perpetual profession, unless, as is sometimes the case, the constitutions require annual professions. These are the enactments contained in Canon 574, § 1.

11. (*a*) By virtue, then, of these enactments, this temporary profession must be made *in the house of the novitiate.* If a province has two novitiates, and a novice has spent part of his time in one house, part in another, the vows may be taken in either of them. If the constitutions

require two years of novitiate — and some novices make the second year in a house different from that of the novitiate — they must be recalled to the house of novitiate two months before the time of their profession and remain there until they have taken their vows. (S. Congregation of Religious, Nov. 3, 1921. *Acta Apostolicae Sedis,* XIII, 539.)

12. (*b*) The period for which this temporary profession should be made (*a*) cannot extend *beyond three* years; (*b*) except in the case of novices who, after three years from the date of temporary profession, are not twenty-one years of age; in their case the temporary profession must cover the entire period up to the required age. This section of Canon 574 ends with the clause: "unless the constitutions require annual professions." Accordingly, in these institutes which require *annual* professions the vows should not be taken for a *continuous* period of *three* years or *longer,* respectively, but for *one year* at a time, and they must be renewed each year until the professed have lived under temporary vows for *three* years, or *longer,* if this be necessary to reach the age of twenty-one.

13. (*c*) Before the Code lay brothers who, as members of an *order,* were admitted to solemn vows, could not make their perpetual profession until they had completed the *thirtieth* year of age and had remained in simple vows for *six* years. Since the Code went into effect, they fall under the present enactments and are no longer bound by the previous law, whether in regard to the length of the simple profession or of the age required for the solemn profession. This freedom from the previous law holds also in the case of those who by the time the Code went into effect (May 19, 1918), had taken the vows for six years. (S. Congregation of Religious, Oct. 6, 1919. *Acta Apostolicae Sedis,* XI, 420.)

14. (*d*) This law relative to temporary profession does not affect those institutes whose members, in taking their

vows, use the formula: "As long as I shall remain in this congregation," and who, accordingly, are freed from their vows, whenever they leave, whether of their own accord or because they are dismissed. (Pontifical Commission on the Code, March 1, 1921. *Acta Apostolicae Sedis,* XIII, 177.) This law affects only institutes in which perpetual vows are taken; in the congregations just mentioned the vows are not perpetual.

15. (2) This temporary profession may be *prolonged* by the legitimate superior, who may order a *renewal* of the temporary vows, but the extension should not go *beyond three additional years.* (Can. 574, § 2.)

(*a*) It belongs to the constitutions to define who is the superior to whom this right belongs. In exercising this right this superior does not need the intervention of chapter or council, not only because no mention of this intervention is made in this canon, but also because Canon 575, § 2, is silent on this point, having reference only to the intervention which is required by the superior in admitting candidates to the *first* temporary profession and to the *perpetual* profession. On the other hand, the superior must have some reason for ordering an extension. A sufficient reason may be the advisability of testing the fitness of the professed more thoroughly before admitting them to the perpetual profession, or, simply, the convenience of waiting a few weeks longer until several others will have finished their period of three years, in order that all may take the perpetual profession together.

(*b*) The superior may order that this renewal be made for a *continuous* period of three years, or for *shorter* periods, which, when taken collectively, shall not exceed three years.

(*c*) While it is certain that this extension should never cover *more* than three years, it may be disputed whether it *may reach* this length of time in the case of those who first took temporary vows for *more than three* years on account

of a defect of age. In other words, it may be disputed whether if, for instance, a sister first took temporary vows for *four* years because at the time she was only seventeen years old, the superior may prolong her temporary profession for *three* years or only for *two*. Both are probable, but the former seems to be preferable, because it is more in keeping with the *wording* of the law, while *reasons* might be advanced in favor of both views. The following Canon, 575, deals with perpetual profession.

16. By virtue of Canon 575, § 1, when the period of temporary vows is over, the professed must, in keeping with Canon 637, either make their perpetual profession or return to the world.

The period referred to in Canon 575, § 1, covers *three years* or *more*, according to the various cases contemplated in the preceding paragraphs.

The period is over on the anniversary day of the temporary profession and, if the religious does not leave the institute, the perpetual profession must be made on the same day. (See below, ¶ 22.) Thus, for instance, those who on January 1, 1920, took the temporary vows for a second time for a three year period must be admitted to the perpetual profession on January 1, 1923. (Can. 34, § 3, n. 5.)

In keeping with Canon 637, referred to in Canon 575, § 1, on the expiration of the temporary vows, religious may leave of their own accord or, for a sufficient reason, they may be dismissed by superiors. In fact, they may be dismissed even before the period of temporary vows has expired, provided the enactments of Canon 647 are observed. (Can. 575, § 1.) (See LEAVING, ¶ 2; DISMISSAL, ¶¶ 6–12.)

17. The first temporary profession must be preceded by a retreat of eight full days. (Can. 571, § 3.) The Code does not prescribe a retreat before *renovation* of vows or before *perpetual* profession. It is not prescribed that the

retreat be made *immediately* before taking the vows, although it is highly commendable that it should take place as near that time as possible. At least no long interval should separate the retreat from the vows.

18. Both the first temporary and the perpetual professions must be preceded by an examination of the candidate, to be made by the Ordinary of the place, even in the case of nuns who are subject to regulars. The purpose of this examination is to ascertain whether or not the candidate is acting with the necessary freedom and deliberation. This examination, to be made free of charge, must take place at least thirty days before the time assigned for the profession, and the superior must notify the Ordinary at least two months before that time. (Can. 552.)

IV. Ceremonial

19. The ceremonial embraces the formula of profession, as well as the prayers and other circumstances which accompany the taking of vows, such as the blessing of the veil, the quality and number of persons who must be present, etc. Without ordering any ceremony in particular, the Code decrees that the ceremonial prescribed in the constitutions be followed. (Can. 576, § 1.)

The general rule, then, is to follow the constitutions on this point, but it is necessary to take into consideration also the answer given in this matter by the Pontifical Commission on the Code, July 10, 1919. (*Acta Apostolicae Sedis*, XI, 323.) According to this answer, the rites and ceremonies which have reference to the *perpetuity* of the religious state, formerly prescribed by some constitutions, must now be reserved for the *perpetual* profession, whether solemn or simple, while in the case of the *temporary* profession, it is sufficient that the vows be taken in the presence of the legitimate superior, according to Canon 572, § 1, n. 6. This answer, however, does not forbid that,

with permission of the legitimate superior, and of the Ordinary of the place in the case of nuns, the temporary profession be made with a certain amount of publicity and solemnity, including the use of certain rites and ceremonies, such as the blessing of the veil, provided these are not expressive of a perpetual profession.

20. A written record of the profession, signed by the religious who made the profession and by at least the person in whose presence it was made, must be kept in the archives of the institute. Moreover, in the case of a *solemn* profession, the superior who either personally or through a delegate received the vows, must notify the pastor of the place where the religious was baptized, in order that he may enter the profession in the baptismal books, as prescribed by Canon 470, § 2. (Can. 576, § 2.)

V. Renovation of Vows

21. The renewal of vows may be *devotional* or *canonical*. The former is not obligatory by the general law, but is prescribed in several institutes for the purpose of fostering the religious spirit of their members, and may also be made by those who have taken perpetual vows. The latter is made in keeping with the requirements of the law by those who have not taken perpetual vows. Canon 577 deals with the latter; the enactments contained in it are explained in the following paragraphs.

22. Vows must be renewed (*a*) either because the constitutions require annual professions (Can. 574, § 1, or, (*b*) because superiors have reasons for extending the term of three years required by law (Can. 574, § 2) or, (*c*) because the whole term of temporary vows is at an end and perpetual vows are to be taken. (Can. 575, § 1.) In all these cases the renovation must take place *without delay* on the expiration of the preceding period (Can. 577, § 1); that is, on the *anniversary day* on which the preceding

temporary vows expire, so that there will be no instant of time when the religious remain without vows. (Can. 34, § 3, n. 5.)

23. While every renewal of vows must take place without delay, the renewal of *temporary* vows may, for any just reason, be anticipated by a month, at the order of the superior. (Can. 577, § 2.) This *anticipation,* however, has not the effect of *shortening* the period of temporary vows, which is obligatory by law. Thus, in the case of annual professions, if the first renewal be anticipated by one month, it does not follow that the perpetual profession could take place *one month* prior to the completion of the prescribed period of three years; nor, if the second renewal were also anticipated by one month, would it follow that the perpetual profession could take place *two months prior* to the completion of the same prescribed period. In other words, whether the renewals be anticipated or not, three full years must be completed as prescribed in Canon 574, § 1, which, under penalty of invalidity, requires that the *perpetual* profession be preceded by *three* years of temporary vows. Accordingly, to safeguard the completion of these three years, the Code allows *anticipation* of the renewal, only when the vows have to be renewed *temporarily.* The last renewal at which *perpetual* vows are taken cannot be anticipated. This is clear from the wording of Canon 577, § 2, which, in allowing this anticipation, refers to the renewal of *temporary* vows.

VI. Candidates subject to Military Service

24. For countries where military service is obligatory by law for a year or more, even in time of peace, the Holy See has made special provisions, regulating the profession of those affected by such a law. According to these provisions novices who are affected cannot be allowed to

make the ordinary triennial profession, but must be admitted to a temporary profession that will last until they are enrolled as members of the army, subject to military discipline. During the term of military service (*a*) they are free from their religious vows, although they remain members of their institute; (*b*) they may leave the institute and; (*c*) the institute may dismiss them for just and reasonable causes. When the term of their active service is over, they must renew their temporary vows for at least another year before being admitted to perpetual profession. When this year is over, they may be admitted to perpetual vows, provided the two periods during which they have been under temporary vows are equal to a three year term. (S. Congregation of Religious, Jan. 1. 1911; Feb. 1, 1912; Jul. 15, 1919. S. Consistorial Congregation, Oct. 25, 1918. *Acta Apostolicae Sedis,* III, 37; IV, 246; XI, 321; X, 481.) According to an answer given by the S. Congregation of Religious, November 30, 1919, in institutes in which annual vows are taken the novices who are subject to military service may be admitted to the annual vows, but these annual vows cease when they are enrolled in the army, subject to military discipline. (*Acta Apostolicae Sedis,* XII, 73.)

VII. Effects

25. On this point no special reference is made to the effects which necessarily follow the religious profession in whatever form it is made, such as are the general obligations arising from the vows and from the mutual agreement implied in profession. Here special mention is made only of the effects which are attached to religious profession by positive law or are peculiar to one or other of the various forms in which it may be taken. As to the various effects regarding property, see Private Property. As to the general obligations arising from the vows, see the Vows of Poverty, Chastity, Obedience.

We follow the order of the canons in the Code under the heading: RELIGIOUS PROFESSION, with a few additions from other canons.

26. (1) (*a*) The professed who have taken the temporary vows that are obligatory in institutes with perpetual vows enjoy the same indulgences, privileges and spiritual favors as the professed who have taken *solemn* vows or *simple perpetual* vows, respectively, and in the case of death are entitled to the same suffrages (Can. 578, n. 1) even though the constitutions approved by the Holy See before the Code may have provided otherwise. (Pontifical Commission on the Code, Oct. 16, 1919. *Acta Apostolicae Sedis,* XI, 477.)

(*b*) They are subject to the same obligations of observing the rules and the constitutions, except that, in institutes in which the choir obligation exists, they are not bound by the law of reciting the Divine Office *privately,* unless they have major orders or the constitutions expressly prescribe otherwise. (Can. 578, n. 2.)

(*c*) They do not enjoy active and passive voice unless the contrary is expressly laid down in the constitutions. The time, however, required in order to be entitled to active and passive voice, has to be reckoned from their first profession whenever the constitutions are silent on this point. (Can. 578, n. 3.) Active voice is the right to *vote* in a chapter; passive voice is the right of *being voted for* at an election to an office.

27. (2) The profession of *simple* vows, whether temporary or perpetual, has the effect of making the acts which contain a violation of the vows *illicit* but *not invalid,* unless there is an express provision to the contrary; whereas the profession of *solemn* vows makes similar acts *also invalid;* that is, null and void, if their nature is such that they can be nullified. (Can. 579.) Accordingly, if without the necessary permission or dispensation the professed of simple vows dispose of donations which are purely per-

sonal gifts, or contract a marriage, they sin by so acting but, apart from peculiar enactments, the disposal of their money and their marriage hold. On the contrary, in the case of professed of solemn vows, the same acts not only are sinful, but are deprived of all legal value. In fact, in the case of solemnly professed, even the *acceptance* of a donation for themselves is invalid. There are actions, however, which cannot be nullified because they possess no legal value of which they may be deprived; for instance, walking, reading and the like.

28. (3) A special effect attached to solemn profession is the dissolution of the marriage bond in the case of a person who, with the necessary dispensation, has entered the religious state, provided the marriage had not been consummated. (Can. 1119.)

29. (4) In institutes of men, if the professed possess *parochial* benefices, they lose them after a year from the time of their first profession; if they possess *other* benefices, they lose these after three years, likewise to be reckoned from the time of their first profession. (Can. 584.)

30. (5) The obligations arising from vows taken before making the religious profession are suspended as long as one remains in a religious institute. (Can. 1315.)

31. (6) Religious profession is incompatible with membership in a *third* order. (See THIRD ORDERS.) Hence the *professed* cease to be members of a third order to which they may have belonged before; but, if they are released from their vows, their former membership is revived without the need of a new aggregation. (Can. 704.)

32. (7) By making their *perpetual* profession, religious are permanently affiliated with the institute which they have joined, but at the same time they lose their affiliation with the diocese to which they belonged before. (Can. 585.) This enactment is in keeping with Canon 111, § 1, according to which clerics must be attached either to a diocese or to a religious institute.

VIII. Invalid (Profession)

33. Religious profession may be invalid either on account of an impediment which was *external,* or on account of a lack of *internal* consent. The first kind of nullity takes place when, for instance, the profession was not preceded by a valid novitiate, or was made by a person who was not of the required age. The second, when exteriorly the conditions necessary for validity were fulfilled, but the person withdrew internal consent.

In the former supposition, even if the obstacle has ceased to exist, there are only two ways of rendering the profession valid. One is by an act whereby the Apostolic See renders the profession valid without renewal by the religious. The other consists in renewing the act of profession; and this renewal must be made after the nullity of the first profession has become known to the parties and the impediment has ceased, either by itself or through a dispensation. (Can. 586, § 1.)

In the latter supposition the only thing required is that internal consent be given, provided in the meantime it has not been withdrawn by the religious institute. (Can. 586, § 2.)

34. It may happen that a profession is *not certainly* invalid, but that there exist serious reasons for doubting its validity. In such a case it is necessary, as a matter of precaution, either to renew the profession or to ask the Holy See to render it valid. If the religious is unwilling to do either, the case must be referred to the Apostolic See. (Can. 586, § 3.)

89. PROFESSION OF FAITH

1. Canon 1406 enumerates various classes of persons who on the occasions mentioned in the same canon must make the *profession of faith;* that is, must express their

adherence to articles of faith, set forth in an appropriate formula approved by the Apostolic See. This formula is to be found in the editions of the Code of Canon Law, immediately before the first book.

2. (1) Among those who are subject to this obligation are religious, whenever, by reason of their office and position, they come under one or the other of the classes affected by the law. The superior before whom religious, even though exempt, must make this profession, is the Ordinary of the place, or someone delegated by him, when there is question of the following:

(*a*) Those who are appointed to an office with the care of souls.

(*b*) The rector and professors of sacred theology, Canon Law and philosophy, in episcopal seminaries.

(*c*) Candidates for the order of subdiaconate.

(*d*) Diocesan censors of books.

(*e*) Priests who receive from the Ordinary of the place faculties to hear confessions or to preach.

(*f*) Diocesan consultors.

(2) Moreover, the professors of a university or of a faculty canonically established and the students who, having passed an examination, receive academic degrees, must make the profession of faith in the presence of the rector of the institution or of someone delegated by him; as to the *rector* of the university or faculty, he must make the profession of faith in the presence of the Ordinary or of someone delegated by the Ordinary. This Ordinary is one of the higher superiors in the case of a university or faculty which is in charge of exempt religious; in other cases it is the Ordinary of the place.

(3) In regard to religious superiors, see SUPERIORS, ¶ 18.)

3. Besides, by virtue of a declaration of the S. Congregation of the Holy Office, dated March 22, 1918 (*Acta Apostolicae Sedis,* X, 136) the *anti-modernistic* oath or-

dered by Pius X, though not mentioned in the Code of Canon Law, must still be taken according to the terms and formula set forth in the *Motu Proprio* of the same Roman Pontiff, dated September 1, 1910. (*Acta Apostolicae Sedis,* II, 668.)

90. PROVINCE

1. When a religious institute has considerably increased in numbers, especially if its foundations cover very extensive territories, its houses are formed into two or more groups, each group having its own superior and its own administration, but remaining part of the whole institute. *Province* is the term usually employed to designate these groups, while the superior of every group is called a *provincial.* (Can. 488, n. 6.)

2. In *pontifical* institutes the first formation of provinces — the change of the limits of those already formed — as well as the suppression of any of them, are all acts reserved to the Holy See. It is likewise reserved to the Holy See to separate an independent monastery from a monastic congregation and unite it to another. (Can. 494, § 1.) When a province is *suppressed,* it belongs to the general chapter, or, in case the general chapter is not in session, it belongs to the superior general with his council to determine the disposition of the property, unless the constitutions provide differently. In any case, care has to be taken to observe the laws of justice and to fulfil the will of the founders. (Can. 494, § 2.)

3. After a *diocesan* congregation has been established in a diocese, it cannot establish houses in another diocese without the consent of the Ordinary of the place where the *principal* or *main* house[1] is located, and of the Ordinary

[1] "*Principal* or *main* house" is the literal translation of the Latin term "*domus princeps,*" by which the *residence of the superior general* is designated. It may be customary for religious

of the place where the proposed houses are to be opened; but the Ordinary of the place in which the main house is situated should not refuse his consent without a grave reason. (Can. 495, § 1.) It is probable that the permission of this Ordinary is required only the first time, and that for opening a second or a third house the permission of the Ordinary of the place where these houses are going to be established is sufficient. We say: "it is probable," because this interpretation is suggested by the wording of the law, although its correctness might be disputed. (Blat, *Commentarium Textus Jur. Can.,* Lib. II, p. 470.)

4. In regard to *diocesan* institutes, the Code only lays down rules concerning the establishment of houses in different dioceses. As to the formation of *provinces,* it has no special provision, nor does it prohibit this action. There is nothing, therefore, forbidding the formation of provinces in diocesan institutes. As to the formalities to be observed in case provinces are formed, the consent of the Ordinaries in whose dioceses an institute has houses seems to be sufficient, unless the constitutions require more.

91. PROVINCIAL COUNCIL

1. A *provincial council* is a legitimate assembly of the Bishops of an ecclesiastical province called together with power to enact decrees in matters of ecclesiastical discipline and to promulgate them after they have been revised by the Holy See. (Can. 290.)

A provincial council is convoked by the Metropolitan of the ecclesiastical province which holds the council, or by the senior of the suffragan Bishops, in case the Metropolitan is prevented from so doing by some legitimate impediment, or the archiepiscopal see is vacant.

---

congregations of women to call this residence the *mother-house,* but we have chosen the other expression, which is a faithful translation of the legal Latin term, and not ambiguous.

2. Besides the Bishops of the province and other prelates, all the higher superiors of exempt clerical institutes and all the superiors of monastic congregations must be invited to take part in it. On being invited they must attend; otherwise they must notify the council of the impediment which prevents them from accepting the invitation. Their vote, however, is only consultative. (Can. 286, § 4.)

92. PUBLICATION OF BOOKS

In the *publication* of books and pious pictures, religious, even though exempt, are subject to the same general laws as are seculars. Accordingly, they cannot publish sacred pictures and those books which, in keeping with Canon 1385, are to be submitted to ecclesiastical censorship, without the permission of either the Ordinary of the place where the author resides, or of the Ordinary of the place where the pictures or books are published, or of the Ordinary of the place where they are printed. (Can. 1385, §§ 1, 2.) Besides this, religious also need permission from their higher superior. (Can. 1385, § 3.) Moreover, they must obtain the permission of their higher superior and of the Ordinary of the place even for publishing books which treat of profane subjects, as well as for writing for, or directing newspapers or periodicals. (Can. 1386, § 1.)

93. RECTORS OF CHURCHES

1. By this term the Code designates priests who are given charge of a church that is neither parochial, nor attached to the house of a religious community whose members celebrate in it the Divine Offices. (Can. 479, § 1.)

2. When there is question of appointing as rector a *reli-*

gious, even though exempt, the priest chosen by the superior must be approved by the Ordinary of the place. As to his removal, this may be effected by the Ordinary of the place, after having given notice to the superior, or by the superior, after having given notice to the Ordinary of the place. Neither needs the consent of the other official, nor is bound to disclose the reasons for his action, but in case of disagreement the other official has the right to appeal to the Holy See, although such an appeal will not prevent the decree of removal from going into effect until the Holy See decides differently. (Cans. 480, § 2; 486; 454, § 5.)

3. Even though the rector be a religious belonging to an exempt institute, the church remains fully subject to the Ordinary of the place, and in fulfilling his office the rector depends entirely on the same Ordinary. (Can. 485.)

94. REGULAR HOUSE

The term *regular house* designates the religious house of *regulars;* that is, of religious who belong to an *order.* (Can. 488, n. 5.)

95. REGULARS

By *regulars* are understood religious who have taken vows in a religious *order.* (Can. 488, n. 7.) (See RELIGIOUS; RELIGIOUS INSTITUTE.)

96. RELICS

1. *Relics* of those servants of God whom the Church has not yet placed in the catalogue of the Saints or of the Blessed cannot be the object of public worship. (Can. 1277, § 1.)

2. Moreover, in churches, even of exempt religious, it is allowed to pay the honors of public veneration only to those relics of Saints or Blessed, the genuineness of which is proved by an authentic document. This document must have been issued either (*a*) by a Cardinal, or (*b*) by some ecclesiastic who by apostolic indult has the faculty to declare relics authentic, or (*c*) by the Ordinary of the place, but not by the Vicar General without a special commission. (Can. 1283, §§ 1, 2.)

3. When it is certain that a relic is not authentic, the Ordinary of the place shall prudently see that it is withdrawn from the veneration of the faithful. (Can. 1284.)

4. As to *ancient* relics, they should not be removed from the veneration which they have been enjoying, unless in some particular instance it is proved with certainty that the relic is false or spurious. (Can. 1285, § 2.) (See SACRED IMAGES, ¶ 3.)

97. RELIGIOUS

1. This term applies to all who have taken vows in a *religious* institute, whether that institute is a religious *order* or a religious *congregation;* whether their vows are *solemn* or *simple; perpetual* or *temporary.* (Can. 488, n. 7.)

2. Religious who have taken vows in a religious *order* are also called *regulars,* whether they have taken *solemn* or only *simple* vows. Religious who have taken vows in a religious *congregation* are also called *religious of simple vows.* (Can. 488, n. 7.)

3. The terms *regulars* and *religious of simple vows* apply both to men and women who belong to an order or to a congregation, respectively (Can. 597); but in the case of *women,* the terms *nuns* and *sisters* are also used, as follows:

4. When the Code mentions *nuns,* (*a*) it refers to religious women whose vows *are* solemn; (*b*) *ordinarily* it includes *also* religious women whose vows *must* be solemn *by rule,* but in certain countries *are simple* by virtue of

some pontifical enactment; we say that *ordinarily* the term *nuns* includes also women mentioned under (*b*) because at times the term is limited to those under (*a*), to those, namely, who actually *take solemn* vows; but the limitation has to appear from the subject matter or the context of the law. (Can. 488, n. 7.) (See NUNS.) *Sisters* are religious *with simple vows,* as distinguished from *nuns.* (Can. 488, n. 7.)

98. RELIGIOUS HOUSE

I. *Definition.*

II. *Establishment.*

III. *Suppression.*

I. DEFINITION

1. A *religious house* is the habitual residence of a religious community, whether the community belongs to an *order* or to a *congregation;* if it belongs to an order, it is called also *regular* house. (Can. 488, n. 5.)

II. ESTABLISHMENT

2. No religious house may be established unless it is seen that the community will be provided with suitable lodging and the necessary means of support. It makes no difference from what source these means are derived, whether, namely, from the revenues of the community, or from the ordinary offerings of the faithful, or from any other safe endowment. (Can. 496.)

3. Besides the written consent of the Ordinary of the place where the house is to be located (which is always required) the permission of the Holy See is necessary for opening: (*a*) an *exempt* religious house, whether formal or not; (*b*) a *monastery* of *nuns;* (*c*) *any* religious house whatsoever, if it must be established in a

place subject to the S. Congregation of Propaganda Fide. In other cases (different from these three) the permission of the Ordinary of the place is sufficient. (Can. 497, § 1.) (About the house of the novitiate, see NOVITIATE, ¶ 33.)

4. The permission to open a religious house carries with it (*a*) in the case of clerical institutes, the permission to have a church or public oratory and to exercise therein the sacred ministry; (*b*) for all religious institutes, the faculty to perform the pious or charitable works which are peculiar to each institute. These permissions, however, are subject to the following conditions and limitations:

5. In regard to the faculty to open a church or public oratory, religious must apply to the Ordinary of the place for determining the exact spot where the sacred edifice is to be built. (Can. 1162, § 4.) Moreover, in exercising the sacred ministry, they cannot disregard the laws which govern the various acts of ministerial work. Thus they need special faculties from the Ordinary of the place for preaching and hearing confessions. (See PREACHING, PENANCE, ¶¶ 3, ff.) In administering the sacraments they must not disregard parochial rights, etc.

6. In regard to the faculty to perform the works of the institute, they must fulfil the conditions which, in giving the required permission, the Ordinary may have laid down. (Can. 497, § 2.)

7. We are of the opinion that the same permissions which are necessary for establishing a religious house are to be obtained for *transferring* it to some other location, even though both places are in the same diocese unless, of course, the difference of place is so slight that it may be said to remain in practically the same locality. At least the consent *of the Ordinary* seems to be necessary. The *location* of a religious community is not an immaterial element in a foundation; and one of the reasons why the law requires the intervention of the Ordinary of the place

is that he may see that a religious establishment does not unnecessarily interfere with the prosperity of other useful establishments already in existence. (See Leo XIII, C. *Romanos Pontifices,* May 8, 1886, Paragraph "*Fieri solet.*")

8. What has been said so far has reference to the opening of a new *religious house.* This term designates the seat of a religious community, whether its members attend to external works in the same place or not. But what is required if the religious wish to open a school, or a hospital, or an asylum or any other like institution, *separated* from a religious house already established, but to be attended to from it? According to Canon 497, § 3, the permission of the Ordinary of the place is sufficient, but it must be a *special* permission; the permission granted for opening the house from which such an institution depends is not sufficient.

9. Once a religious house has been *established,* what formalities are required if the religious intend to *change* its character and use? All will depend on the nature of the desired change. While the nature of every religious house is the same, in so far as it is intended as a residence of religious whose chief aim is the acquirement of Christian perfection, its character may be different according to the particular use to which it may be destined. Of the uses, some affect *only* the *internal* management of the institute, as in the case of a novitiate or a scholasticate. Some go beyond the internal administration and affect *externs,* as when there is question of a school, an asylum or a similar institution. The law then is that, if the change affects *only* the *internal* management of the institute, no new formalities are necessary; if it affects the relations of the religious to *externs,* it is necessary to observe the same formalities which are prescribed for establishing a new religious house. (Can. 497, § 4.) Accordingly, if religious change a scholasticate to a novitiate, new permission

is not necessary; if they change a scholasticate into a college for externs they must secure the same permissions which were required for opening the former institution. In all cases, however, in making the change, nothing may be done which would be contrary to the will of the founders.

III. Suppression

10. To suppress a religious house:

(1) If it belongs to an *exempt* institute, it is necessary to obtain the consent of the Apostolic See.

(2) If it belongs to a non-exempt *pontifical* institute, the authority of the superior general, with the consent of the Ordinary of the place, is sufficient.

(3) If it belongs to a *diocesan* institute, the authority of the Ordinary of the place is all that is required, but the Ordinary must first hear the superior of the congregation. There is one exception, however, when a diocesan institute consists of one house only, when the authority of the Holy See is necessary for suppressing that house. In this case, should the Ordinary proceed to the suppression without special faculties, his act would be null and void. If in *ordinary* cases — those which, namely, do not fall under this exception — the Ordinary should decree the suppression of a house against the will of the superior of the congregation, the latter would be justified in appealing to the Apostolic See, and this appeal would have a *suspensive* effect; that is, the decree of suppression could not be carried out pending the appeal. (Cans. 498, 493.)

99. RELIGIOUS INSTITUTE

I. *Definition and divisions.*

II. *Organization.*

III. *Establishment.*

IV. *Suppression.*

I. Definition and Divisions

1. In the definition of the Religious State it is said that this state is a permanent manner of *community* life. A *religious institute* is precisely the *community* referred to in that definition, and contains the three chief elements of that state (though not all of them are equally explicit); namely, stability by means of vows — the virtues that are the subject matter of the vows, for the purpose of acquiring Christian perfection — and membership in a community. In fact, a religious institute is defined in Canon 488, n. 1: "A society approved by the legitimate ecclesiastical authority, the members of which, following laws proper to their association, take public vows, either perpetual or temporary, to be renewed after the lapse of a fixed time, and thus tend to evangelical perfection." The vows are called *public* because they are accepted by a legitimate ecclesiastical superior in the name of the Church. (See Vows.) They may be *perpetual* or *temporary,* but in the latter case they are supposed to be renewed at stated times.

2. The main division of religious institutes is into *orders* and *congregations.* A religious order, or simply an *order,* is an institute in which *solemn* vows are taken, though not necessarily by all its members; a religious congregation, or simply a *congregation,* is an institute in which *only simple* vows are taken. (Can. 488, n. 2.) (See also Diocesan-Pontifical-Exempt Institute; Clerical-Lay Institute; Monastic Congregation; Mendicant Orders.)

II. Organization

3. Most religious institutes are so organized that the several local communities or houses belonging to it depend on one central government with a general superior at the head. When the number of members and houses of a religious institute has become too large, the local communi-

ties are formed into groups under the name of *provinces* with superiors at their head who, in their turn, depend on the general superior of the whole *institute*.

4. In several religious institutes the local communities, though belonging to the same family, have an independent government of their own. This is the case with the order of the Visitation. In the case of the Benedictine family, the local communities have come together and united, so as to form congregations, without, however, losing their individual autonomy or independence. (See MONASTIC CONGREGATION.)

III. ESTABLISHMENT

5. (1) The establishment of a new religious institute belongs exclusively to *Bishops*. Vicars General, Vicars Capitular or Administrators do not share this ordinary power of Bishops. Moreover, even Bishops cannot exercise this power without having first consulted the Apostolic See in each particular case. In applying to the Apostolic See they must supply information on the following points: name and purpose of the founder of the new congregation; name and title of the latter; form, color and material of the habit to be worn by its members, both novices and professed; its peculiar scope and corresponding works; whence it derives its means of support; whether there are similar congregations in the diocese and to what kind of works these apply themselves. (S. Congregation of Religious, March 6, 1921. *Acta Apostolicae Sedis*, XIII, 312.) In keeping with Canon 100, § 1, in order that a religious institute may enjoy the standing of a *moral person* in the Church, the competent authority must issue a formal decree of what is termed *canonical erection*. In a decree dated November 30, 1922, the S. Congregation of Religious reminds Bishops of the necessity of canonical erection and gives them appropriate instructions for legalizing the status of those diocesan institutes, whether strictly or

broadly religious, for which in the past this formal decree was not issued. (*Acta Apostolicae Sedis,* XIV, 662.)

6. When there is question of forming *tertiaries;* that is, members of a *third order,* into a religious congregation, it is necessary, moreover, that these be affiliated with the *first* corresponding *order* by the authority of the superior general of the latter. (Can. 492, § 1.) See THIRD ORDERS.)

7. Neither the name nor the habit of an institute legitimately established may be adopted by a new institute or by anyone who does not belong to it. (Can. 492, § 3.)

8. An institute which has been founded by the sole authority of a Bishop, without any other intervention of the Holy See than the permission granted by it after having been informed on the several points just mentioned (¶ 5) *is* and *remains diocesan,* even though it has extended over several dioceses. (Can. 492, § 2.) (See ORDINARY OF THE PLACE.)

9. (2) In order to become *pontifical,* the authority of the Holy See is required, from which an institute has to obtain a decree of *approval* or at least of *commendation.* (Can. 492, § 2.) The process which the Holy See follows in granting these two decrees is laid down in a document approved by the Roman Pontiff on March 6, 1921, explained and published in the *Acta Apostolicae Sedis* on June 18, of the same year. (XIII, 312.) See NORMAE, ¶¶ 3, ff.)

10. (3) A *pontifical* institute is not the same as an *exempt* institute. (See PONTIFICAL INSTITUTE, EXEMPT INSTITUTE, ORDINARY OF THE PLACE, ¶¶ 3–6. In the last of these articles there is an explanation of the different relations which these institutes bear to the Ordinary of the place and to the Holy See.) In order that a pontifical institute may become *exempt,* it must either assume the character of a religious *order* by being allowed to admit members with *solemn* vows. or it must obtain exemption

by special privilege. In both cases the special intervention of the Holy See is necessary.

IV. Suppression

11. The suppression of religious institutes is reserved to the Holy See, even though there be question of a diocesan institute consisting of only one house. It is also reserved to the Holy See to determine to what use the property of the suppressed institute has to be applied, always, however, safeguarding the will of the donors. (Can. 493.)

100. RELIGIOUS OF SIMPLE VOWS

This term applies to religious who have taken vows in a religious *congregation.* (Can. 488, n. 7.) (See Religious; Religious Institute.)

101. RELIGIOUS STATE

1. The *religious state* is defined in Canon 487 as "a permanent manner of community life by which the faithful undertake to observe, not only the precepts common to all, but also the evangelical counsels by means of the vows of obedience, chastity and poverty."

The religious state is called a *permanent* manner of life, because it must have some *stability;* this stability must be secured *by means of vows.*

By this manner of life the faithful undertake to practice the *evangelical counsels,* that is, the virtues of obedience, chastity and poverty counselled in the Gospel as means of acquiring Christian perfection, because the religious state has the acquirement of Christian perfection as its object.

This state is called a manner of *community* life because, according to the present discipline of the Church, it has

to be undertaken in some community approved by ecclesiastical authority.

2. The elements, therefore, of the religious state are: *stability* of purpose by means of vows, the practice of the three *evangelical counsels,* and membership in a *community.*

3. To emphasize the excellence of such a state, the same Canon (487) says that "it must be held in honor by all."

102. ROMAN PONTIFF

1. All religious are subject to the Roman Pontiff as their highest superior, and they must obey him also by virtue of the vow of obedience. (Can. 499, § 1.) Accordingly, he exercises his jurisdiction over them, not only as *Christians,* but also as *religious,* in all matters which either explicitly or implicitly are contained in their religious profession, in accordance with their constitutions. The main organ through which he uses his authority over them is the S. Congregation of Religious. (See APOSTOLIC SEE.)

2. In several countries the Roman Pontiff is represented by a prelate with the title of *Legate.* By virtue of his office a legate is the guardian of ecclesiastical discipline and must acquaint the Roman Pontiff with the status of the Church in the territory entrusted to his care.

3. If, besides the office mentioned in the preceding paragraph, a legate is charged with the mission of fostering friendly relations between the Apostolic See and the civil government to which he is sent, he is called a *Nuncio* or *Internuncio;* otherwise he bears the title of *Apostolic Delegate.* Accordingly, the latter is the title of the representative of the Roman Pontiff in this country. (Can. 267.)

4. Besides the *ordinary* powers which legates have by virtue of the office as described in the law, they enjoy faculties *delegated* to them by the Holy See. By virtue of these faculties they can, whether personally or through

others, grant dispensations, absolutions and other spiritual favors in cases in which it would otherwise be necessary to have recourse to the Apostolic See. (See ENCLOSURE, ¶ 12; COMMUNITY PROPERTY, ¶ 7.)

5. Moreover, in this country the Apostolic Delegate has power to accept *complaints* and to settle, in an *informal* manner, controversies between contending parties, after having heard all those concerned. He cannot, however, settle controversies *with the formalities* of a canonical trial which must be held by the court of the Ordinary of the place; nor can he receive appeals from sentences which have been passed by the court of the Ordinary of the place, with the formalities of the law, whether in marriage cases or in other affairs.

When there is doubt *in a point of law;* when, namely, there is a doubt concerning the meaning of a general law or canon contained in the Code, if one wishes to obtain an *authentic* declaration, that is, a declaration which will solve the doubt authoritatively and definitely, application must be made to the Pontifical Commission on the Code. (See APOSTOLIC SEE, ¶ 4.) This Commission, however, does not answer doubts which are proposed directly by *private* persons, it answers only doubts presented by Ordinaries or by the higher superiors of religious institutes and similar societies. (Pontifical Commission on the Code, Dec. 9, 1917. *Acta Apostolicae Sedis,* X, 77.)

103. RULES AND CONSTITUTIONS

I. *Definitions.*

II. *Bearing of the Code on rules and constitutions.*

III. *Their binding force.*

I. Definitions

1. These two terms have not always had exactly the same meaning in the history of religious institutes.

(1) For several centuries the collection of regulations by which religious communities were governed was called a "*rule.*" Such are the rules of St. Basil, St. Benedict, St. Augustine and later, the rule of St. Francis.

(2) When new religious orders were established, often the founders prescribed one or another of these rules for their followers. This became especially true when the Holy See adopted the practice of approving only those new orders which proposed to follow one of the older rules. Thus St. Romuald, the founder of the Camaldolese, and St. Dominic, the founder of the Order of Preachers, adopted, respectively, the rules of St. Benedict and St. Augustine. It was but natural, however, that, while adopting one of the already existing rules, the new founders would add some peculiar statutes in keeping with the peculiar objects of the new institute. These statutes were called *constitutions.* In this sense the *constitutions* were different from the *rule* to which they were added. The same order, therefore, had a "rule" and *its* "*constitutions.*"

(3) Gradually the Holy See began to approve new orders without requiring them to adopt one of the prevailing rules, and allowed them to be governed exclusively by their own special regulations. The body of such regulations sometimes was called the "*rule,*" sometimes was referred to as "*constitutions,*" approved in the form of a rule. In this sense there was no distinction between the rule and the approved constitutions; both terms designated the same body of regulations.

(4) In the course of time the term *constitutions* prevailed, and the new institutes which apply to Rome for approval are warned that in presenting their regulations to the Holy See, they should not divide them in two sections:

the *rules* and the *constitutions*. According to the present practice, the new congregations must call all their regulations *constitutions*, because the word *rule*, in its strict sense, is reserved to the rules of the older orders approved by the Holy See. This practice, however, does not abolish the broader sense of the term *rules*. In a broader sense it has been, and still is customary to call *rules* those articles of the constitutions which regulate the ordinary actions of the members of a community, so we speak of the rules of silence, modesty, rising promptly, etc.

2. (5) Summing up, the term *constitutions*, in general, designates a body of regulations peculiar to a religious institute, especially to a religious congregation. The term *rule*, strictly, applies to the older collections of regulations belonging to some order, whether they are common to several orders, like the four older rules (above, n. 1, 2) or they are peculiar to each. (n. 3.) More broadly, the term *rules* points to articles of the constitutions which embody detailed directions on religious observance.

II. Bearing of the Code on Rules and Constitutions of Religious Institutes

3. According to Canon 489, the rules and particular constitutions of each religious institute which are not contrary to the canons of the Code remain in force; those, however, which are contrary to them are abrogated.

This canon gives the bearing of the Code on the rules and constitutions of religious institutes which *were approved before the Code went into effect*. The canon distinguishes between the articles which are not contrary, and those which happen to be contrary to some canon in the Code. For instance, if the constitutions of an institute of women had an article excluding candidates who had passed the age of thirty, this article would not be contrary to

the Code, because, although the Code itself does not exclude such candidates, neither does it require them to be admitted. On the other hand, if an article declared that the institute is open to converts from a non-Catholic sect to which they gave their name after apostatizing from the Catholic Church, this article would be contrary to the Code, because the Code excludes such candidates from religious institutes. By Canon 489 the former of these two articles remained in force, the latter was abrogated.

4. Moreover, for the correct understanding of this canon, a remark must be added about those articles of the constitutions which happen to embody a *privilege* granted to an institute by the Holy See. Articles of this kind, although contrary to the Code, remain in force, unless the Code *expressly* abrogates the privileges embodied in them. This assertion is borne out by Canon 4, which declares that privileges which were in force at the time the Code went into effect are not abrogated by the Code, unless expressly revoked. Thus, for instance, Canon 555, § 1, n. 1 enacts that to begin the novitiate one must have completed the fifteenth year of age. Notwithstanding this enactment, if at the time the Code went into effect, postulants were allowed to begin their novitiate at an earlier age in some religious institute by virtue of an apostolic privilege, the article of the constitutions containing this privilege remained intact by virtue of Canon 4. If, however, to this same Canon 555, § 1, n. 1 there was added a clause revoking all contrary privileges, the article contrary to this canon, though containing a privilege, would have been abrogated.

5. By a decree dated June 26, 1918 (*Acta Apostolicae Sedis,* X, 290) the S. Congregation of Religious ordered all pontifical institutes and all societies of men or women living in common without public vows to send to it a copy of the constitutions revised and corrected as required by the new enactments of the Code. This could be done by them at the time they sent the quinquennial report of the

status of their institute. (See SUPERIORS, ¶¶ 24, ff.)

In a later decree, dated October 26, 1921 (*Acta Apostolicae Sedis,* XIII, 538), the same Congregation published the following declarations and enactments:

(*a*) Religious institutes are required to submit to the S. Congregation only the constitutions whose text was previously approved by the Apostolic See.

(*b*) The necessary modifications must be made by the respective order, or congregation, or monastery, and two copies of the constitutions thus modified must be forwarded to the S. Congregation.

(*c*) Only such modifications should be made which are required by the Code, by *changing* what is *contrary* to it and *adding* what was *newly enacted* by it. In making these modifications the very wording of the Code should, as far as possible, be used.

(*d*) If an institute wishes to introduce other changes besides those made necessary by the Code, they should not be inserted in the revised text, but should be separately proposed and embodied in a petition, with the reasons for the changes. However, the petition will not be granted unless the changes were previously discussed and approved in the general *chapter.* Only in case of matters of minor importance; for instance, if there is question of changing the wording of the text or of doing away with a practice which has already gone into desuetude, will the consent of the general *council* suffice.

(*e*) In order to avoid undesirable differences in the text of those constitutions which are used by several independent monasteries or independent houses of the same religious family, let there be only one text, embodying all the modifications. This text may be proposed by the communities themselves; otherwise it will be drawn up by the S. Congregation.

This last enactment concerns, respectively, the Visitandines, the Discalced Carmelites, the Poor Clares and, in general, the monasteries of nuns.

III. Their Binding Force

6. Unless the ecclesiastical authority has approved them with the proviso that they bind under sin, they do not impose a strictly moral obligation, and to violate them is not in itself sinful. We say that the violation of a rule is not sinful *in itself*, because it may be sinful on account of various circumstances, as in the following cases: (*a*) When there is question of a rule which embodies an obligation that arises from the vows, as is, for instance, the rule which declares that nothing should be used without the permission of superiors. In this case the sin does not arise from the violation of the rule, as such, but from the breaking of the vow referred to in the rule. (*b*) When the *motive* which leads a religious to transgress a rule is bad in itself. This is the case when one violates a rule through human respect, or vainglory. Again, in these cases it is not the violation of the rule, as such, but the wrong motive that makes the act sinful. (*c*) When the violation of a rule gives scandal because it is done in the presence of other religious, under such circumstances as encourage them to similar transgressions. Repeated transgressions of rules tend to relax religious discipline; in these cases the sin consists in thus cooperating in this relaxation of discipline, which is a serious evil for any community. In all these cases (*a, b, c*) the sin committed is usually only venial, except when the transgression of a rule involves the violation of a vow, in a serious matter.

7. The constitutions of pontifical institutes cannot be changed by the Ordinary of the place. As to *diocesan* institutes, the Ordinary of the place may introduce changes in them, with the exception of those points (name, habit, etc.) which were submitted to the Holy See at the time of foundation. (See Religious Institute.) But if a diocesan institute has houses in several dioceses, changes cannot be introduced without the consent of all the Ordinaries in whose dioceses its houses are located. (Can. 495,

§ 2.) The consent must be *unanimous;* that is, no point in particular can be changed unless *all* the Ordinaries agree, because the law requires the consent of each and every one of them.

104. SACRED IMAGES

1. It is not permitted to expose in a church, even though exempt, or in any sacred place, *images* such as statues, paintings, etc., of an *unusual* form, unless they have been approved by the local Ordinary. (Can. 1279.) By an image of an *unusual* form is understood any image which represents or suggests some new idea in the manner of honoring God and the Saints. Thus it would be unusual to represent a *Saint pointing to his heart,* as it is customary to represent our Lord and the Blessed Virgin; or to picture the hands of our Holy Redeemer separately from His sacred body. It is easy to understand why the Church wisely requires the approval of the Ordinary of the place in this matter. It is his duty to see that sacred images destined for public veneration do not suggest anything detrimental to faith and morals, and that they do not depart from the approved traditional practice of the Church.

2. Images which are *new* only to the extent that their *type* or *design* is new, without at the same time suggesting any new idea in Christian worship, do not seem to come under the provisions of Canon 1279, which deals with images of an *unusual* form to be exposed in sacred places for public veneration. On the other hand, when there is question of *printing* and *publishing* sacred images, and not merely of placing them in churches, the approval of the Ordinary is necessary by virtue of Canon 1385, § 1, n. 3. This canon requires that *all* sacred pictures, *independently of their form,* be submitted to the censorship of the Ordinary of the place before being *published.* (See PUBLICATION OF BOOKS.)

3. By virtue of Canons 1280 and 1281 the permission of the Apostolic See is necessary for alienating or permanently transferring from one church to another: (*a*) *precious* images; (*b*) *notable* relics and (*c*) other images and relics which are held in great veneration by the people.

According to Canon 1280, by *precious* images are understood those which are notable by reason of antiquity, art or worship, and are exposed for the veneration of the faithful in a church or public oratory; according to Canon 1281, § 2, the relics of the Saints and of the Blessed which must be considered *notable* are, besides the entire body, the head, an arm or forearm, the heart, the tongue, a hand or leg and that part of the body in which the martyr suffered, provided this part is entire and not too small.

Moreover, according to a declaration of the S. Congregation of the Council, dated July 12, 1919, the permission of the Holy See is necessary for alienating pious objects which in the same decree are called *donaria votiva* (votive offerings). (*Acta Apostolicae Sedis,* XI, 416). This term applies to commemorative articles (such as gold and silver hearts) which according to the pious wish of the donors are to be permanently hung at an altar or shrine in thanksgiving for favors received through the intercession of some Saint.

105. SANCTION

1. This article embodies the punishments sanctioned in the canons which make *express* mention of *religious.* But besides these punishments, delinquent religious may incur other penalties, whether by virtue of other canons of a more general character, or by virtue of the particular laws of their institute.

I. *Interference with the liberty, rights and jurisdiction of the Church.*

II. *Membership in Masonic and similar societies.*

III. *Violation of papal enclosure.*

IV. *Bodily violence against clerics and religious.*

V. *Unlawful alienation of ecclesiastical property.*

VI. *Unlawful absence from diocesan conferences.*

VII. *Business dealings forbidden to clerics and religious.*

VIII. *Apostates and fugitives.*

IX. *Deceitful profession.*

X. *Attempting or entering a marriage contract.*

XI. *Disregard of common life.*

XII. *Crimes in the matter of elections.*

XIII. *Unlawful choice of ordaining Bishop.*

XIV. *Unlawful reception of candidates.*

XV. *Unlawful expenditure of dowries and disregard of provision for canonical examination of candidates in institutes of women.*

XVI. *Interference with canonical visitation.*

XVII. *Interference with freedom of religious women in the matter of confessions.*

I. Interference with the Liberty, Rights and Jurisdiction of the Church

2. Religious who become guilty of the crimes set forth in Canon 2334 by enacting laws, orders or decrees contrary to the liberty or the rights of the Church, or by hindering, directly or indirectly, the exercise of ecclesiastical jurisdiction, imploring for this purpose the intervention of any civil authority, besides incurring excommunication reserved in a special manner to the Holy See, are to be punished by privation of office, as well as of active and passive voice, and by other penalties according to their constitutions. (Cans. 2334; 2336.)

II. Membership in Masonic and similar Societies

3. Religious who join a Masonic sect or other similar associations which plot against the Church or the legitimate civil powers, besides incurring, by the very act, excommunication reserved to the Holy See, are to be punished by privation of office as well as of active and passive voice, and by other penalties according to their constitutions and, moreover, must be denounced to the S. Congregation of the Holy Office. (Cans. 2335; 2336.)

III. Violation of Papal Enclosure
(See Enclosure, ¶¶ 2, 3)

4. (1) *Men's enclosure.* Women who violate the enclosure of an order of men, as well as superiors and all others, whoever they be, who introduce or admit into the same enclosure women of whatever age, incur, by the very act, excommunication reserved to the Apostolic See. Moreover, the religious who introduce or admit them are to be deprived of any office they may hold, and of active and passive voice. (Can. 2342, n. 2.)

Canon 2230 lays down the rule that those who have not reached the age of puberty are excused from the punishments that are incurred, *ipso facto,* without the intervention of a judge. Accordingly, although women under the age of puberty are not allowed by the law to enter the enclosure, by violating the law they do not incur this excommunication. *Superiors,* however, and *others* who *introduce* or *admit* them, do incur it, because the sanction affecting those who introduce or admit them has reference to women, of *whatever* age the women may be.

5. (2) *Women's enclosure.* Those who, without the required permission, violate the nuns' enclosure by entering it, of whatever class, condition or sex, incur, by the very act, excommunication reserved to the Apostolic See. The same excommunication is incurred by those who introduce

or admit them into the enclosure. (Can. 2342, n. 1.) The former of these two sanctions does not affect those who are under the age of puberty, although they also are forbidden to enter the enclosure. The latter sanction is so worded that probably it does not include those, who, contrary to the law, admit or introduce persons below the age of puberty.

6. Nuns who go out of the monastery in violation of the law contained in Canon 601 incur, by the very act, the same excommunication. (Can. 2342, n. 3.) Although postulants in communities of nuns who take solemn vows are subject to the law of enclosure (Can. 540, § 3), they, as well as novices, are not subject to this sanction, which affects *professed* nuns only. (Can. 2342, n. 3, together with Can. 601.)

IV. Bodily Violence against Clerics and Religious

7. Those who lay violent hands on a cleric or a religious of either sex incur, by the very act, excommunication reserved to their own Ordinary. (Can. 2343, § 4.) If those who commit such acts of violence are *exempt* religious, their own Ordinary is one of their higher superiors.

V. Unlawful Alienation of Ecclesiastical Property

8. Those who shall presume to alienate ecclesiastical property or give their consent to such alienation, contrary to the enactments of Canon 534, § 1, and 1532:

(*a*) If the value of the property thus alienated does not exceed 1000 *lire*, they are to be punished with suitable penalties by their legitimate superior.

(*b*) If the value is greater than 1000 *lire* and less than 30,000 *lire*, those who enjoy the right of patronage shall be deprived of their right; administrators of their office; religious superiors and bursars of their office and of the

capacity of receiving other offices, besides other suitable penalties to be inflicted on them by their superiors; moreover, Ordinaries and clerics who hold any office, benefice, dignity or charge in the Church shall pay a double sum to the church or pious cause that has been injured by them, and the other clerics shall be suspended for a period to be determined by the Ordinary.

(*c*) Finally, if in the cases in which, according to the above mentioned canons, apostolic approbation is required, this has been knowingly neglected, all who are in any way guilty, either by giving away the property or by receiving it, or by giving their consent, are subject, without any further sentence, to excommunication, which, however, is not reserved to anyone. (Can. 2347, nn. 1, 2, 3.) By virtue of Canons 534 and 1532, apostolic approbation is necessary in the case of *precious* objects or of property the value of which surpasses 30,000 *lire*. (See COMMUNITY PROPERTY, ¶ 7.)

The Code expresses the value of the property which is subject to the law, in Italian *lire*. Every hundred Italian *lire*, in gold, are equivalent to about twenty dollars. Accordingly 1000 and 30,000 lire amount to about 200 and 6000 dollars, respectively.

VI. UNLAWFUL ABSENCE FROM DIOCESAN CONFERENCES

9. Priests who contumaciously violate the law set forth in Canon 131 regarding diocesan conferences shall be punished by the Ordinary according to his judgment, and if they are priests having faculties to hear confessions but not engaged in the care of souls, he shall suspend them from hearing the confessions of seculars. (Can. 2377.)

VII. BUSINESS DEALINGS FORBIDDEN TO CLERICS AND RELIGIOUS

10. Clerics or religious who, whether personally or through others, are engaged in trading or business, con-

trary to the enactments of Canon 142, are to be punished by the Ordinary with penalties proportionate to the seriousness of the offence. (Can. 2380.)

VIII. Apostates and Fugitives

11. Religious who are apostates from their institute *ipso facto* incur excommunication; this excommunication is reserved to one of their own higher superiors if they belong to an exempt clerical institute; otherwise it is reserved to the Ordinary of the place in which they dwell; moreover, they are excluded from all legitimate acts and are deprived of all the privileges of their institute. If they return to it, they always remain without active and passive voice and, besides, they must be punished by their superiors with other penalties, according to the gravity of their offence, in accordance with the constitutions. (Can. 2385.)

12. *Fugitive* religious incur *ipso facto* privation of office if they hold any in their institute, and suspension reserved to their own higher superior if they are in major orders. When they return they must be punished according to the constitutions; if the constitutions make no provision for this, the higher superior shall punish them according to the seriousness of the offence. (Can. 2386.)

IX. Deceitful Profession

13. A religious cleric whose profession has been declared null and void because of self-confessed deceit, if (*a*) he has only minor orders, must be expelled from the clerical state; if (*b*) he has major orders, he remains suspended *ipso facto* until the Apostolic See shall declare otherwise. (Can. 2387.)

X. Attempting or Entering a Marriage Contract

14. Clerics in major orders or religious with solemn vows who presume to contract a marriage even though only

before the civil authorities, as well as anyone who presumes to contract a marriage with them even though only before a civil magistrate, incur, by the very act, excommunication reserved to the Apostolic See. If neither of the parties is in major orders or solemn vows, but one of them is a religious with simple, perpetual vows, both parties concerned incur excommunication reserved to the Ordinary. (Can. 2388.)

XI. Disregard of Common Life

15. Religious who are guilty of *serious* violations of common life as prescribed in the constitutions are to be seriously admonished and, if amendment does not follow, to be severely punished, by privation of active and passive voice, and, if they are superiors, by privation of office. (Can. 2389.) A religious would seriously violate common life if, for instance, he procured, retained, and used precious articles not in keeping with religious poverty as practiced in his institute.

XII. Crimes in the matter of Elections

16. Whosoever in any way, either personally or through others, interferes with the freedom of ecclesiastical elections, or, because of an election already completed, in any way harms the electors or the person who has been elected, must be punished according to the gravity of his offence. (Can. 2390, § 1.) And if lay persons or civil authorities presume, to the detriment of canonical liberty, to meddle in an election that is carried on by a corporate body of clerics or religious, the electors who solicited this intervention or freely accepted it, are *ipso facto* deprived of the right of electing for that time, and anyone who knowingly gives consent to his own election brought about in this manner is disqualified *ipso facto* from the office or benefice in question. (Can. 2390, § 2.)

17. A corporate body which knowingly elects one who

is unworthy is *ipso facto* deprived for that time of the right of proceeding to a new election. (Can. 2391, § 1.) Moreover, individual electors who knowingly fail to observe the form which is essential to an election, may be punished by the Ordinary, as the seriousness of the offence requires. (Can. 2391, § 2.)

XIII. Unlawful Choice of Ordaining Bishop

18. Religious superiors who, contrary to the enactments of Canons 965–967, presume to send their candidates for ordination to a Bishop other than the diocesan are *ipso facto* suspended for a month from celebrating Mass. (Can. 2410.)

XIV. Unlawful Reception of Candidates

19. Religious superiors who accept an unfit candidate, in violation of Canon 542, or who receive a candidate without testimonial letters as required by Canon 544, or who admit a novice to profession, disregarding Canon 571, § 2, are to be punished, even with privation of office, according to the gravity of the offence. (Can. 2411.)

XV. Unlawful Expenditure of Dowries and Disregard of Provision for Canonical Examination of Candidates in Institutes of Women

20. A superior in a religious institute of women is to be punished by the Ordinary of the place according to the seriousness of the offence, even, if the case require it, with privation of office:

(1) If contrary to the enactments of Canon 549, she presumes to spend in any way the dowries of the candidates who have been received, always, however, remaining bound by the enactments of Canon 551.

(2) If, contrary to the enactments of Canon 552, she neglects to inform the Ordinary of the place about the

approaching admission of anyone to the novitiate or profession. (Can. 2412.)

XVI. Interference with Canonical Visitation

21. (1) Religious superiors who, after notification of the canonical visitation, transfer their subjects to another house without the consent of the visitor; and

(2) All religious, whether superiors or subjects, who personally or through others, directly or indirectly, either

(*a*) Induce religious to be silent when questioned by the visitor, or in any way to conceal the truth or to abstain from stating it sincerely, or

(*b*) Under any pretext cause religious any disturbance on account of answers given by them to the visitor, are subject to the following penalties:

(3) They are to be declared by the visitor *disqualified for* offices which involve government of others, and those who are superiors are to be *deprived of* their office. (Can. 2413.)

XVII. Interference with Freedom of Religious Women in the matter of Confessions

22. A superior of a religious community of women who interferes with the freedom of her subjects in the matter of confessions, in violation of Canons 521, § 3, 522, 523, is to be admonished by the Ordinary of the place. If she offends again, she is to be punished by him with privation of office, but notification is immediately to be sent to the S. Congregation of Religious. (Can. 2414.)

106. SEMINARY TAX

1. Where episcopal seminaries lack sufficient revenues for their establishment and support, Bishops are empowered by law to impose a tax, to be determined in conformity with Canon 1356, on benefices and other moral

persons in the diocese. Among such persons are also regular benefices and religious houses, even though exempt, with the exception of those houses that either are supported exclusively by alms, or have a college of teachers *or* of students, for the common welfare of the Church.

2. The college referred to in the exception need not be a *seminary* in the strict sense of the term. Moreover, the exception holds, whether the house has a college both of teachers *and* students, or of *either*. Finally, a scholasticate, or house of studies established for the members of an active religious institute, may enjoy the benefit of exception, because such a house is intended to prepare suitable subjects destined to devote their life to the common welfare of the Church. (Bondini, *De privilegio exemptionis,* n. 38.)

107. SISTERS

This term designates religious women *of simple* vows. (Can. 488, n. 7.) (See RELIGIOUS.)

108. SOCIETIES WITHOUT PUBLIC VOWS

1. According to Canon 488, n. 1, a society is recognized by the Church as a *religious* institute when it fulfils certain conditions; that is, when it has the approval of competent ecclesiastical authority, and its members tend to the acquirement of Christian perfection by the practice of the three evangelical virtues: poverty, chastity and obedience, confirmed by *public vows*.

2. But the Church gives its sanction also to communities which *imitate* the life of *religious* without verifying all these conditions. This is the case with those societies, whose members, under the government of legitimately appointed superiors, tend to Christian perfection, but do not take the usual *three public vows*. In some of these

societies the members take only one vow; in some they take no vows at all; in others they take three vows which, however, are not *public* because they are not accepted as public by the Church. Such societies, though very praiseworthy, are not properly *religious* institutes, nor does the title of *religious* properly apply to their members. (Can. 673, § 1.)

3. Societies of this kind may be *clerical* or *lay, pontifical* or *diocesan,* after the manner of religious institutes. (Cans. 673, § 2; 488, nn. 3, 4.)

4. The *establishment* and *suppression* of these *societies,* of their *provinces,* and of their *houses,* are subject to the same enactments which govern *religious congregations.* (Can. 674.) These enactments are contained in Canons 492–498. (See RELIGIOUS INSTITUTE, ¶¶ 5, ff.; PROVINCE; RELIGIOUS HOUSE.)

5. The *government* of these societies is defined in their respective constitutions, but in every one of them Canons 499–530 must be observed in due proportion. (Can. 675.) (See ROMAN PONTIFF; CARDINAL PROTECTOR; ORDINARY OF THE PLACE; RELIGIOUS SUPERIORS; CHAPTERS AND COUNCILS; ELECTIONS; CANONICAL VISITATION; LAST SACRAMENTS; FUNERALS; HONORARY TITLES; BURSARS; PROCURATOR GENERAL; CONFESSORS; CHAPLAINS; MANIFESTATION OF CONSCIENCE.)

6. In regard to the *ownership* and *administration* of *property,* Canon 676 contains the following enactments:

(*a*) The society, its provinces and houses are capable of acquiring and possessing temporal goods. (§ 1.)

(*b*) The administration of temporal goods is governed by Canons 532–537. (§ 2.) (See COMMUNITY PROPERTY, ¶¶ 3, ff.)

(*c*) Whatever the members acquire *as members of the society,* because given to them for the society, belongs to the society (see PRIVATE PROPERTY, ¶ 11); as to what is conveyed to them under other titles, it is retained,

acquired and administered by them in conformity with their constitutions. (§ 3.) The members of these societies, therefore, are not bound by the canons that govern the *administration* and *disposal* of *property* and *revenues* of *religious,* nor by Canon 580, § 2, ordaining that religious do not acquire what is conveyed to them *as the fruit of their labors,* unless the enactments contained in these canons are embodied in the particular constitutions of the society.

7. In regard to the *admission* of candidates, let the constitutions be followed, but Canon 542 must be observed. (Can. 677.) Canon 542 defines who may be validly and licitly admitted to the novitiate. Accordingly, the impediments which bar admission to a religious institute, without a dispensation from the Holy See, likewise hinder admission to these societies. See the contents of Canon 542 in the article on NOVITIATE, ¶¶ 1–16.

8. In the matter of *studies* and *ordinations,* the members of these societies are bound by the same laws which govern *secular clerics,* as well as by peculiar enactments which the Holy See may have issued in their regard. (Can. 678.)

9. As to their *obligations,* besides those to which they are subject by virtue of their *constitutions,* they are bound by the obligations which the *general law* of the Church imposes *on clerics* except when, owing to the subject matter or the context of a canon, it is clear that a certain enactment does not affect the members of these societies. (Can. 679, § 1.) As to these *general* obligations of *clerics* which are equally applicable to the members of these societies, see the article on OBLIGATIONS, ¶¶ 2, ff.

10. Moreover, they are subject to the obligations which the *general law* of the Church imposes on *religious* in Canons 595–612, with the exception of those which are defined differently in the constitutions. (Can. 679, § 1.) As to the *enclosure,* they shall observe, under the vigilance of the Ordinary of the place, what the constitutions prescribe concerning it. (Can. 679, § 2.) See PIOUS EXER-

CISES (Can. 595); RELIGIOUS HABIT (Can. 596); CHURCH, ¶¶ 4, 5, 7; PARISH, ¶¶ 6, 8. (Cans. 608, 609, 612.) DIVINE OFFICE (Can. 610); LETTERS. (Can. 611.)

11. In the matter of *privileges* (*a*) they enjoy those which by the general law contained in Canons 119–123, belong to *clerics* (see PRIVILEGES, ¶¶ 8–12); (*b*) those which the Holy See has granted directly to their society, but (*c*) they do not enjoy the privileges which belong to *religious,* except in case of a special indult. (Can. 680.)

12. In regard to a *change* of society, *leaving,* without permission and *dismissal,* Canon 681 enacts, first, that the constitutions of each society must be observed.

Moreover:

13. (*a*) As to *changing* from one *society* to *another* or from a *society* to a *religious institute,* it confirms the general canons which govern changes from a *religious institute* to *another institute,* with the exception of Canon 636, which has special reference to changes from institutes with *solemn* vows. (See CHANGE OF INSTITUTE.)

(*b*) In regard to *leaving,* it mentions only Canon 645, which deals with the obligation of a subject to return to the community, and the obligation of superiors to receive him, if truly repentant.

(*c*) As to *dismissal,* it confirms Canons 646–672 on *dismissal of religious.* (See DISMISSAL.)

But all these canons (under *a, b, c*) must be applied to these societies, *in due proportion;* that is, in so far as they are applicable to their members, who, unlike religious, often have no vows, although they may have similar obligations arising from oaths, or simple promises of perseverance. Thus the canons which govern the dismissal of *religious* with *perpetual vows* must be applied to those members of these societies who, without vows, have bound themselves to remain in their society for life; whereas the canons which govern the dismissal of *religious* with *temporary vows* must be applied to those members of these societies whose obligation to remain in their society

is only temporary. (Pontifical Commission on the Code, March 1, 1921. *Acta Apostolicae Sedis,* XIII, 177.)

109. SUPERIORS*

(See TERMINOLOGY)

I. *Various classes.*

II. *Powers.*

III. *Appointment.*

IV. *Obligations.*

I. VARIOUS CLASSES

1. The *superiors* to whom religious are subject are: the Roman Pontiff (see ROMAN PONTIFF); the Ordinary of the place (see ORDINARY OF THE PLACE), and those superiors who are *members of the institute* or family over which they preside, whether they possess and exercise their authority *individually,* or *as forming moral bodies* called *chapters.* (See CHAPTERS AND COUNCILS.)

This article deals with the superiors who are *members of the institute* and are *individually* endowed with authority. They may be called simply *religious superiors.*

2. The main division of religious superiors is into *higher* and *lower* superiors.

The superiors who, in the Code, are called *majores* or *higher superiors* are: the abbot primate; abbots who are superiors of monastic congregations; abbots of monasteries that are independent, even though affiliated to a monastic congregation (see ABBOT; MONASTERY; MONASTIC CONGREGATION); moreover, superiors general of religious institutes, provincials, their vicars and all others who possess the authority of provincials. (Can. 488, n. 8.) Accordingly, the following are included: the vicar general of an institute and the vice-provincial while the offices of su-

* See appendix, page 346 referring to ¶¶ 4, 16.

perior general and of provincial are vacant, and the religious visitor who is invested with the powers of a provincial.

3. In keeping with the rule of interpretation laid down in Canon 490, the holders of these offices are termed higher superiors, whether the institute is of *men* or of *women.* Does this hold also in the case of a superior of an independent monastery of *nuns,* such as an abbess or prioress, as she may be called? Is she also to be classed with the higher superiors? Creusen (*Religieux et Religieuses,* n. 13) and Fanfani (*De jure religiosorum,* n. 33) answer in the affirmative. The latter adds that it is so, provided there is a *lower* superior in the monastery, and the abbess retains only the higher government of the community; but there seems to be no sufficient reason for adding this limitation. (Vermeersch, *Periodica de Re Canonica et Morali,* X, [9].)

4. The superiors who neither explicitly nor implicitly are mentioned in Canon 488, n. 8 (which deals with *higher* superiors *only*) are referred to in Canon 505 as *minores locales.* The *minor* or *lower* superiors, then, are those who are at the head of a *house* or *community* which is part of a province governed by a provincial, or of a whole institute governed by a superior general. We limit the character of a *minor* superior to the superior of a *community* which is *part* of a *province* or *institute,* and is thus *dependent* on the larger body of which it is a part, because, if the community is an *independent* monastery, its superior is recognized by the Code as a *higher* superior. (See preceding paragraphs.) Superiors who are at the head of a dependent community in the sense just explained are *minor* superiors. It matters not whether they are endowed with *jurisdiction* or only with *domestic* power (see below, ¶¶ 5, 6); whether they are *men* or *women,* whether they belong to *pontifical* or to *diocesan* congregations. They may have different titles; they may be called: rectors, guardians, priors, superiors. But their subordinate officials, such as ministers, sub-priors. vicars, etc., though *inferior* to them,

are not called *minor superiors,* in the sense of Canon 505, because they are not *superiors* in the strict sense of the term.

II. Powers

5. All religious superiors, whether men or women, govern their subjects by virtue of a power which is called in Latin *potestas dominativa* or *domestica.* (Can. 501, § 1.) This *domestic* power is the *right* to govern, corresponding to the *obligation* which religious assume in taking the vow of obedience in a community, when they make their religious profession. By taking the vow of obedience *in a community,* according to its constitutions, religious not only *promise God* to obey the duly appointed officers in charge, but they assume the obligation *to act as members of the community,* within the scope of the institute, *under the direction of the same officers.* The power to direct the members of the community, arising from their free act of aggregation, is this power which is called *domestic.*

6. Besides this *domestic* power (which belongs to all religious superiors) the superiors of *clerical exempt* institutes are endowed with the power of *jurisdiction.* (Can. 501, § 1.) This power of jurisdiction differs from the domestic power in the *title* by which it is acquired. The domestic power is the natural outcome of the religious profession. The power of jurisdiction is part of the governing power, first given by Christ to His Church, and then communicated by His Vicar on earth to religious superiors of clerical exempt institutes, in whom it resides to the extent of the pontifical communication. Jurisdiction may belong to the so called *forum internum,* or to the *forum externum.* The former directly governs the faithful in their *personal* relations to *God* and does not go beyond the domain of conscience; the latter directly governs Christians in their external relations to the Church and bears on the social administration of the same. A dispensation from a private vow, or the absolution from sins belongs to the *forum*

internum; a dispensation from a public vow or the absolution from a censure, granted by an ecclesiastical judge, belongs to the *forum externum.*

7. As to the extent of this twofold power; namely, the domestic power and the power of jurisdiction, in religious superiors, it may be said in *general* that the former extends to all matters of *religious* discipline, in keeping with the peculiar end of each institute; the latter comprises, besides, matters of *ecclesiastical* discipline in which seculars and non-exempt religious depend on Bishops. To define in *particular* the exact limits of these two powers, the general laws of the Church and the constitutions of each institute must be taken into consideration. Thus, for instance, the jurisdiction of exempt clerical institutes does not extend to cases which fall under the competency of the S. Congregation of the Holy Office, as for example, the crime of heresy. (Can. 501, § 2.) Besides, their jurisdiction is limited in cases in which, notwithstanding the privilege of exemption, the law subjects the members of exempt institutes to the jurisdiction of Bishops. (See the article on EXEMPTION, in which all such cases are mentioned.)

8. Likewise, the general law and the particular constitutions must be consulted to define the limits of power *in the various classes* of religious superiors. Although, *in general,* a local superior has authority over a whole *house,* a *provincial* over a whole *province* and a superior general over the whole *institute,* their respective power, in particular, is often better defined in the law and the constitutions, both in regard to the amount of authority possessed by them and the manner in which it is to be exercised. (Can. 502.) Some affairs are reserved by the law to the superior general (Can. 580, § 3), some to one or the other of the higher superiors (general or provincial). (Can. 590.) Again, the decision of certain affairs is left to their discretion; in regard to others they must hear the advice of their council, while there are some affairs that are reserved to

chapters. (See CHAPTERS AND COUNCILS.) These various provisions of the law are mentioned in this book in their respective places. Here mention must be made of a general principle laid down in Canon 501, § 3. Although the abbot primate and the superiors of monastic congregations belong to the class of *higher* superiors, they do not share all the powers and jurisdiction which the law attributes to higher superiors. Their powers and jurisdiction are defined in the constitutions and special decrees of the Holy See. However, the superiors of monastic congregations have the powers which the law gives to superiors general in Canons 655 and 1594, § 4. The former of these two canons deals with cases of dismissal, the latter with appeals.

9. We may add here a brief reference to the contents of Canon 503. By virtue of this canon, in exempt clerical institutes the higher superiors have the faculty to appoint *notaries,* but only to act in ecclesiastical affairs of their institute.

10. We close this section by mentioning the contents of Canon 500, § 3. According to this canon, a special apostolic indult is necessary in order that a religious institute of men may have authority over a congregation of women or retain its spiritual care and direction as especially entrusted to it. If a special apostolic indult was obtained before the Code went into effect, it does not seem to be necessary to secure a *new* indult.

III. APPOINTMENT

1. QUALIFICATIONS

11. In accordance with Canon 504, the appointment of higher superiors is not valid unless the three following conditions are verified: It must fall on a person who (*a*) has been professed for *ten* years, to be reckoned from the time of his first profession; (*b*) was born in lawful wedlock, or was duly legitimized by subsequent marriage of his

parents (Can. 1117); (*c*) has completed the fortieth year of age in the cases of a superior general and of the superioress of a monastery of nuns, or the thirtieth year in the case of other higher superiors. According, then, to the first of these conditions a sister who made her temporary profession ten years before the time of appointment, is eligible, whether she remained with temporary vows for three years or for a longer period of time. If the constitutions require other qualifications besides these, such as, for example, a more mature age or a longer standing in profession, they must be observed. The law makes no special provisions for the appointment of *lower* superiors. In regard to these, therefore, the constitutions should be followed.

2. DURATION

12. The term for which *higher* superiors are appointed must be *temporary;* that is, it must extend to a definite period of time, unless the constitutions provide otherwise. (Can. 505.)

13. In regard to *lower local* superiors, these cannot be appointed for more than three years. At the end of three years they may be appointed for a second term of three years, if such reappointment is in keeping with the constitutions. But on the expiration of this second term, they cannot be reappointed immediately for a third term in the same house. (Can. 505.)

It is not forbidden, therefore, to appoint lower superiors for a third term, even immediately, to govern *another* community; or to reappoint them a third time to govern the same community, provided this is not done *immediately* on the expiration of the second term. However, apart from cases of real necessity, it does not seem to be advisable to keep the same person continually in power, even though by changing the same superior from place to place the law is complied with.

14. As to the length of the period which must elapse

before a superior who has served two terms may be reappointed in the same house, we believe that *ordinarily* the interval must last until another superior has filled the next term. The word *immediately* does not refer to succession of *time,* but to the succession of *terms.* The law means that after a superior has served two terms, he cannot be reappointed in the same house *immediately;* that is, for the *term* that follows *next.* This is the obvious meaning of the canon, and is not open to ambiguity. It would, therefore, not be in keeping with the law to leave the office of superior of a house *vacant* for a certain length of time by appointing someone who would act as temporary administrator, and then reappoint the superior who has filled two terms in that house. We say that *ordinarily* the reappointment cannot be made until another superior has filled the next term, because it might be judged otherwise in the following case. After a second term, a different superior is appointed, but his office becomes vacant before the end of the term, on account of death or promotion. In such a case it does not seem to be contrary to the law to reappoint the superior who already served two terms, because the law ordering the appointment of a different superior for the next term had been fulfilled, and it was by accident that the intervening term was not completed.

15. According to a declaration of the Pontifical Commission on the Code, this law of triennial or sexennial changes affects also directors of schools, hospitals and other charitable institutions, if these directors are at the same time superiors of religious depending on them in matters of religious discipline. (June 2, 3, 1918, *Acta Apostolicae Sedis,* X, 344.)

16. But the law does not embrace the *subordinate officials* of the lower superiors, such as ministers, sub-priors and vicars, who are not superiors properly so called. It may happen that a subordinate superior presides over a *section* of the community that resides in a separate building from the main edifice. Even in such cases the law

affects only the main superior, provided, however, the dependence of the subordinate superior on the latter is not *purely nominal.* If the members of the smaller community must, for all practical purposes, deal with the subordinate official as with a true superior, and the superior of the larger community retains only a nominal title as superior of the smaller community, it may be doubtful whether the subordinate official does not really fall under the law.

17. While the Code enacts that *higher* superiors should be temporary, unless the constitutions provide otherwise, it contains no provision concerning their reappointment for successive terms. Often, however, the constitutions themselves contain enactments on this point, at least in regard to the reappointment of *superiors general.* A decree of the S. Congregation of Religious, dated March 9, 1920, confirms these enactments which may be found in the constitutions *of religious women,* declares their import and gives to the Ordinaries appropriate instructions as to how they must be carried out. As in this decree of the Holy See there is question of reappointments by *election,* the main points of this document have been inserted in the article on ELECTIONS.

3. APPOINTMENT BY ELECTION

(See ELECTIONS)

IV. OBLIGATIONS

18. In clerical institutes every superior (*a*) has to make the profession of faith in the presence of the *chapter* that elected him, or of the *superior* who appointed him, or of someone else delegated by the *chapter* or appointing superior. (Can. 1406, § 1, n. 9.) Moreover, (*b*) he must take the anti-modernistic oath ordered by Pius X. (S. C. of the Holy Office, March 22, 1918. *Acta Apostolicae Sedis,* X, 136.) The formula of the profession of faith is to be found in the Code, immediately before the first

book. The formula of the oath may be found in the *Acta Apostolicae Sedis*, II, 669.

19. In all institutes superiors are bound by virtue of their office to promote the spiritual and temporal welfare of the religious entrusted to their care, in accordance with their constitutions. In order better to succeed in this, they must constantly be in touch with their subjects, and these must be given every reasonable opportunity of communicating with them. Hence the necessity of their having a fixed place of *residence* from which they may more easily direct their subjects and to which their subjects may always apply. They should not absent themselves from their residence, except in so far as the constitutions allow. (Can. 508.) This is especially true of local superiors.

20. When the Holy See issues new decrees concerning religious, all superiors must see that their subjects become acquainted with them and observe them. (Can. 509, § 1.) These decrees are *promulgated* by the very fact that they are inserted in the pontifical bulletin *Acta Apostolicae Sedis* and, ordinarily, they become obligatory three months after the date of the number in which they were published. The action of superiors in this regard is not equivalent to a *promulgation*. *Superiors* are obliged only to *make known* to their subjects the decrees which have been *promulgated by the Holy See* for them. Those superiors who are not familiar with the Latin language can obtain a knowledge of these decrees through the diocesan or other Catholic publication.

21. Should the Holy See enact that a decree be read publicly in religious houses, it is left to the care of local superiors to see that, in keeping with the pontifical enactment, the decree is publicly read at stated times. (Can. 509, § 2, n. 1.) In reminding superiors of this obligation, the Code uses the *future* by referring to the decrees " which the Holy See *will order* to be read." Consequently, it is no longer obligatory to read publicly the decrees which

were to be read once a year by virtue of the old law; for instance, the decree "*Quemadmodum.*"

22. Local superiors are also enjoined to have the constitutions read publicly on appointed days once a year. (Can. 509, § 2, n. 1.)

23. It is, furthermore, their duty to see that twice a month a catechetical instruction is given to the lay brothers and to the working people of the household, besides a special conference on Christian doctrine to be given to the novice lay brothers every week. (Cans. 509, § 2, n. 2, 565, § 2.) What is said here of lay brothers holds likewise for lay sisters.

24. Finally, they must take care that at least twice a month a pious exhortation be given to all the members of the community, especially in lay institutes. (Can. 509, § 2, n. 2.)

25. Canon 510 deals with a special obligation that affects the abbot *primate,* the superiors of *monastic congregations* and the superiors *general* of *pontifical* institutes. Every five years every one of these superiors must send to the Holy See a written report of the status of the institute. The document must be signed by the superior and his councillors and, in the case of a congregation of women, also by the Ordinary of the place where the superior general resides. By virtue of Canon 675 this obligation affects also the superiors general of pontifical institutes that are *not strictly religious,* such as those societies described in the article on Societies Without Public Vows.

26. By the enactments contained in these two canons (510, 675) the Code extended to *all* classes of pontifical institutes the obligation which before the Code the Holy See used, for several years previously, to insert in the constitutions of new religious institutes of *simple* vows. In keeping with this practice on June 16, 1906, the S. Congregation of Bishops and Regulars issued a set of questions

bearing on the points which had to be touched on in this report, as far as the nature of each particular institute would allow.

27. A recent decree of the S. Congregation of Religious, dated March 8, 1922, contains additional enactments concerning this report, especially in regard to the time when it must be sent to Rome. (*Acta Apostolicae Sedis,* XIV, 161.)

(1) Beginning with January 1, 1923, the five year periods mentioned in Canon 510 shall be the same for all religious institutes in the following order:

(*a*) Pontifical institutes of *men* (whether religious *orders* or *congregations*) shall present the report as follows:

(i) During the first year of every five year period (1923, 1928, . . .): the regular canons, the monks and the military orders.

(ii) During the second year (1924, 1929, . . .): the mendicant orders.

(iii) During the third year (1925, 1930, . . .): the regular clerks.

(iv) During the fourth year (1926, 1931, . . .): the congregations of simple vows, whether clerical or lay.

(v) During the fifth year (1927, 1932, . . .): the societies of men without vows, or with only private vows.

(*b*) In regard to religious *congregations* of *women,* the order of time is arranged according to territory. The territories, or countries, referred to in the decree are understood to be those where the *main* house; that is, the house which is the official residence of the superior general, is located. Thus the religious congregations of women shall send their report:

(i) During the first year of every five year period (1923, 1928, . . .): from Italy, Spain and Portugal.

(ii) During the second year (1924, 1929, . . .): from France, Holland, England and Ireland.

(iii) During the third year (1925, 1930, . . .): from the other countries of Europe.

(iv) During the fourth year (1926, 1931, . . .): from North and South America.

(v) During the fifth year (1927, 1932, . . .): from the other parts of the world; during the same year the report shall be sent by the societies of women without vows or with only private vows.

In keeping with Canons 510 and 675, this decree is binding on general superiors, whether of monastic congregations or of any other pontifical institute, but not on local superiors of monasteries whether of monks or of nuns, nor on general superiors of diocesan congregations.

(2) If a congregation has already given its report within five years previous to the time when its first report, herein prescribed, is due, it is free from the obligation of sending another report for the first of the five year periods mentioned above. Thus, for example, if a congregation in this country has sent its report at any time between the beginning of the year 1921 and the end of the year 1925, it is free from the obligation of sending another report during the year 1926, and it will not be bound to send any other until the year 1931.

(3) As to the method and the form in which the report is to be prepared religious institutes of *simple* vows which were already bound to send this report at the time when the Code went into effect (May, 1918) shall follow the instruction of 1906 (see above, ¶ 26) with the modifications made by the S. Congregation of Religious after the promulgation of the Code. The instruction thus modified is dated March 25, 1922. (*Acta Apostolicae Sedis,* XV, 69, 459.)

(4) Until the S. Congregation of Religious makes special provisions, the highest superiors of religious institutes with *solemn* vows and of the *other* institutes which were not bound to send this report when the Code went into effect

(see above, ¶ 26) shall follow that method and form which they deem most suitable for supplying the Holy See with accurate information concerning the temporal, moral and disciplinary condition of the institute.

28. When a report is made for the first time it must contain information on the following points: (*a*) origin of the institute; (*b*) pontifical approval; (*c*) the constitutions; (*d*) form of government, nature of the vows, and changes which may have taken place in them; (*e*) mitigation of the rule.

29. If the constitutions revised or approved by the Holy See since the Code went into effect (Pentecost Sunday, 1918) contain an enactment requiring a congregation to send a report oftener than every five years, such enactment must be observed, irrespective of what the present decree has enacted about the five year periods.

30. A very efficient means for promoting the religious discipline of an institute is the visitation to be made by the religious superiors and the Ordinary of the place. (Cans. 511–513.) (See VISITATION, CANONICAL.)

110. TERMINOLOGY: USE OF MASCULINE GENDER

Whatever is enacted in the Code for *religious* in terminology that employs the *masculine* gender, for instance, when the terms *religious, religiosi,* are used, applies both to religious *men* and religious *women,* unless the contrary is clear from the context or the subject matter. (Can. 490.) Thus, it is evident that the enactments which are made for *clerics* do not affect *women* unless the law explicitly includes them.

The same, of course, holds in regard to the use of the masculine gender in this work; for example, when the pronoun " he " is employed in reference to: *religious, novices, professed, superiors;* likewise what is said of the *master*

of novices applies, in general, also to the *mistress of novices.* Exceptions to the rule are evident from the context or the subject matter.

111. THIRD ORDERS

1. A *third* secular *order* is a society of Christians who, living in the world, under the spiritual direction of some religious order whose spirit they endeavor to follow, strive to acquire Christian perfection in a manner suitable to secular life, according to rules approved for them by the Apostolic See. The members of a third secular order are called *secular tertiaries.* (Can. 702, § 1.)

2. A society of this character is called a *third* secular order with reference to the *first* and the *second* religious orders whose spirit it follows. The *first* order is the religious order of *men,* under whose direction it is placed, according to the definition just given. The *second* order is the corresponding religious order of *women.* Thus, in the Dominican family, there is the *first* order of the *Friars Preachers;* the *second* order of *Dominican nuns* and the *third* secular order of *St. Dominic.* Likewise, in the Franciscan family, there is the *first* order of the *Friars Minor,* the *second* order of the *Poor Clares* and the *third* secular order of *St. Francis.*

3. When, as is often the case, a third secular order is divided into several associations, each of these is called a *sodality of tertiaries.* (Can. 702, § 2.)

4. Without prejudice to the privileges in this matter which were granted to certain orders before the Code went into effect, no religious institute may admit to its membership a third order. (Can. 703, § 1.)

5. Even when such a privilege has been granted, religious superiors may indeed enroll the individual persons in the third order, but they cannot validly establish a *sodality* of tertiaries, even in their own churches, without

the written consent of the Ordinary of the place. Moreover, without his special permission, they are not allowed to grant to members of the sodality which they have established a peculiar form of dress to be worn at public sacred functions. (Cans. 703, §§ 2, 3; 686, § 3.)

6. Third orders are subject to the visitation of the Ordinary of the place in regard to the management of their property, and they must give to him an account of their administration at least once a year. (Cans. 690, 691, 1525.)

7. Those who have taken religious vows cannot belong to a third order even if they were enrolled in it before they made their religious profession. If, however, having been released from their vows, they go back to the world, their former membership revives without the need of a new aggregation. (Can. 704.)

112. VISITATION, CANONICAL

1. The object of the *canonical visitation* is to protect and promote religious and ecclesiastical discipline by inquiring whether or not abuses are being introduced and adopting opportune measures for correcting them.

2. The obligation of making the canonical visitation to religious communities rests, first, with their major superiors, to whom the constitutions entrust this office. These superiors must visit all the houses under their care at the times appointed by the constitutions, and they must fulfill this office in person, unless legitimately hindered, in which case they shall appoint someone to replace them. (Can. 511.)

This visitation extends to all matters related to religious and ecclesiastical discipline. Accordingly, the superior shall prudently make such inquiries as are necessary to ascertain whether the rules and constitutions, as well as the laws of the Church, are observed.

3. The obligation of making the canonical visitation of

religious communities rests also with the Ordinary of the place, in conformity with the enactments of Canon 512.

By virtue of Canon 512, § 1, every five years the Ordinary of the place must visit every *monastery of nuns* who are not subject to regulars, and every house, whether of men or of women, belonging to a *diocesan congregation.* In the case of these communities, his obligation and right are not limited, but extend, in general, to all points relating to religious or ecclesiastical discipline.

4. In the case of the other communities mentioned in the second section of Canon 512, they are limited as follows: every five years he must visit:

(1) Every *monastery* of *nuns* who are subject to regulars: (*a*) in regard to the laws of enclosure, and (*b*) also in regard to all else if the regular superior has not visited the monastery for five years. (n. 1)

(2) Every house of a *pontifical, clerical congregation,* even though *exempt,* in regard to the church, the sacristy, the public oratory and the confessional or place set apart for hearing confessions. (n. 2)

(3) Every house of a *pontifical, lay congregation* (*a*) to the same extent as in the preceding case of clerical congregations (n. 3), and *moreover* (*b*) in regard to internal discipline, in keeping with Canon 618, § 2, n. 2. According to this canon the Ordinary of the place has the right and the duty to inquire about the following points: (*a*) whether religious discipline is observed according to the constitutions; (*b*) whether sound doctrine and good morals have been in any way impaired; (*c*) whether the laws of enclosure have been disregarded; (*d*) whether the sacraments are duly and regularly received. Should the Ordinary find out that grave abuses have crept in, he must warn the superiors to provide accordingly; in case they fail to provide as the case may require, he has to take the necessary measures himself. If, however, the matter is of such importance that it will not suffer delay,

he must provide immediately, but he is obliged to acquaint the Holy See with what he has done.

5. As to the right of the Ordinary of the place to inquire about the administration of property, § 3 of Canon 512 enacts that the regulations contained in Canons 532–535 be followed. These canons are explained in this book in the article on COMMUNITY PROPERTY, ¶¶ 3–14. Here it suffices to mention the following points:

(1) Monasteries of nuns must give to the Ordinary of the place an account of the administration of their property every year, or oftener, if the constitutions so prescribe.

(2) Other religious communities of other religious institutes of women, even though pontifical, must give him an account of the administration of the property in which the *dowries* have been invested, at the time of canonical visitation, or oftener, if he deems it necessary.

(3) Moreover, the Ordinary of the place has the right to inquire (*a*) of every community belonging to a religious congregation concerning the administration of the funds and legacies contributed for promoting divine worship or charitable works in the diocese and, (*b*) of every religious, even though he be a member of an order of regulars, about money which has been given to a parish or mission, or to the religious for a parish or mission.

(4) Finally, he has the right to ask from every community of diocesan congregations an account of the administration of whatever property it may possess. (Cans. 535, 532.)

6. The visitor has the right and duty to put such questions to any of the religious as he may deem necessary and to acquaint himself with all matters which pertain to the visitation. (Can. 513, § 1.) The visitor referred to here is the one who actually fulfils this office; that is, the Ordinary of the place or the religious superior, as the case may be.

7. In their turn the religious have the obligation to

answer truthfully, and superiors are not allowed to use any means for preventing their subjects from fulfilling this obligation or to hinder the object of the visitation in any other way. (Can. 513, § 1.) Superiors would fail in their duty if, by threats, promises or wrong representations, they should prevail on their subjects to abstain from answering the questions which the visitor may put to them. They would likewise act unlawfully if, during the time of visitation, they purposely kept away from the house certain subjects who might make unpleasant revelations. (See SANCTION, ¶ 21.)

If an order left by the visitor appears to be unjust, those concerned have the right to complain to higher authorities, but ordinarily their complaint will not have the effect of suspending the enforcement of the order which, consequently, must be obeyed until the higher authorities judge otherwise. We say "ordinarily," because if, instead of proceeding in an informal manner, the visitor should handle a case with all the formalities of a trial, acting as a *judge* and not merely as a *father,* the complaint would assume the character of a formal appeal, which would have a suspensive effect; that is, it would suspend enforcement of the sentence pending the decision before the higher courts. (Can. 513, § 2.) But cases of this kind are quite rare and if they occurred they could easily be recognized by the legal procedure which must accompany a regular trial, and which is not observed in ordinary cases.

8. Besides the right to visit religious houses, in keeping with the canons just explained, the Ordinary of the place has the right to visit schools of any kind, in regard to the *religious* and *moral* training of the students. Even schools directed by exempt religious are subject to this visitation in the matter of religious and moral training, with the exception, however, of those schools which are conducted exclusively for the professed of an exempt institute. (Can. 1382.)

113. VOCATION, RELIGIOUS

1. In the mind of the faithful a *religious vocation* is a special call from God to the religious state.

It is a *call from God,* inasmuch as it implies the manifestation of God's will that one should enter the religious state.

It is a *special* call, because not all the faithful are favored with it. Of this there can hardly be any doubt when we reflect on the large number of Saints who have lived outside the cloister. It is inconceivable that God manifested to these Saints His will that they should embrace the religious state and that they refused to answer the divine call. What is said of these Saints may be repeated of many devout souls in the world who are not conscious of having disregarded the call of God.

2. This divine call, however, is not of the nature of a *command;* rather it has the character of an invitation. Consequently a refusal to answer this call is not, in itself, a mortal sin. On the other hand, those who do not answer it act very imprudently, inasmuch as they swerve from the path which, with a love of preference, God traced for them, and renounce that special crown of glory which would have been in store for them had they heeded the divine call. In fact there are not wanting writers who hold that those who knowingly decline this invitation endanger their eternal salvation in a certain way. This, however, is not sufficiently proved, and is not true, except perhaps in extraordinary cases, in which there would be question of persons who, on account of very peculiar circumstances, could not easily live in the grace of God away from the protective influence of the cloister.

3. The most practical question in this matter is: *How* does God call a soul? how does He manifest to a soul His holy will in this regard? There are, of course, several possible ways in which this may happen.

God may manifest His will to a soul by a private *revelation.* This would happen if God favored a soul with such a clear illumination of the mind that, without the need of any reasoning or examination, it would be certain that this interior voice was from God. This is not the ordinary way in which God manifests His holy will, and no one should expect to be favored by Him in this manner.

4. God may, moreover, call a soul by gently *drawing* its *will* towards the religious state. This happens when God instils in a soul a strong liking for the religious life, together with a corresponding dislike for a life in the world. This is the way in which God manifests His will to many souls, but those who are conscious of such attractions should consider, under the guidance of an experienced director, whether their inclinations are really from God. This can be found out by applying the rules set down by ascetical writers for the discernment of spirits.

5. Finally, the manifestation of God's will may consist in a series of graces, under the influence of which, by prayer and reflection, a Christian comes to the conclusion that it is pleasing to God that he should embrace the religious state. This third manner differs from the second chiefly in this: that it leads a Christian by assisting his *mental faculties* in deliberating what is more pleasing to God, rather than by acting on his *will* by means of sensible inclinations. Often these two ways are employed by God together, inasmuch as He rouses in a soul a strong liking for the religious life, and favors it with the graces which are necessary for making a well-reasoned choice. The former way, however, is not absolutely necessary, and in the absence of a special impulse of the will one may determine the divinity of a call otherwise. But then the question arises: How can one find out God's will according to the third way, which has just been mentioned? What are the signs by which, without expecting a revelation and without experiencing any special attraction

towards the religious state, one may come to know that he is called by God?

6. These signs can be reduced to the two following: *the absence of obstacles* which make it impossible for one to embrace the religious state and *fitness* for the fulfilment of the duties which this state implies.

7. The chief obstacles arise from those personal circumstances which in law are called *impediments,* whether such circumstances prevent a person from embracing the religious state by virtue of the *natural law;* for instance, the obligation of assisting parents who are in great need, or by virtue of the *positive law of the Church;* for instance, the fact that one has once joined a Protestant sect. (See these impediments in the article on NOVITIATE, ¶¶ 1, ff.) When such impediments exist and they are not among those from which a dispensation can be obtained, there can be no question of a vocation. God does not call to the religious state those who are barred from it by His own law, or by the law of His Church when there is no possibility of a dispensation from the law. In cases, however, in which a dispensation is available, the impediment alone is not a sign of the absence of the divine vocation.

Moreover, circumstances may occur under which, according to well regulated charity, the common good may require that a person, for a time at least, should remain in the world. As long as such circumstances remain unchanged, it may, likewise, be judged that one is not called to the religious state.

8. Besides being free from obstacles that cannot be removed, one must be a fit subject for the religious life; that is, must be endowed with the qualities which are necessary for pursuing this kind of life in a manner profitable to oneself and not burdensome to others. (On these qualities see article on ADMISSION TO A RELIGIOUS INSTITUTE, ¶¶ 5, 6.) God does not call a person to the religious state without giving him the necessary qualifications.

9. On the other hand, persons who are free from all obstacles and are fit for the religious state may decide to embrace this state, and may rest assured that by so doing they are following God's holy will. For, when there is question of a state which in itself is more perfect than the opposite, and which affords to its followers most suitable means of perfection, it cannot but be most pleasing to God that one should embrace it, if one has providentially been fitted for it under circumstances which do not interfere with any other obligation. And this all the more, as it was due to God's special grace that the person under consideration began to examine the matter of a vocation and earnestly continued his inquiry up to the point of being able to make a favorable decision. Even in cases in which the impulse to inquire about the matter of a vocation is not perceptible, the first inquiry and the following examination are due to God's grace, which is always necessary whenever there is question of acts that are supernatural, as are those related to a religious vocation.

10. Besides the signs already given, authors mention a *right intention;* but, while it is true that, in making the choice of the religious state, one should be prompted by a right intention; this will serve as a sign of a true vocation for the superiors who are going to accept a candidate, rather than for the candidate himself. In view, however, of the necessity of this right intention, ascetical writers suggest that, after having decided to embrace the religious state, before putting this resolution into effect, one should offer it to God and ask Him to bless and confirm it, if it was rightly taken, or to give him further light, if the election was not the right one.

11. All this is in keeping with the declaration contained in Canon 538; namely, that every Catholic who is not debarred by any legitimate impediment, who is inspired by a right intention and who is fit to bear the burdens of the religious life, may be admitted into a religious institute.

114. VOWS

1. A *vow* is a deliberate, free promise, made to God, implying a possible course of action more perfect than its opposite.

A vow: (*a*) is a *promise,* not a mere wish or resolution.

(*b*) Is made to *God,* not merely to man.

(*c*) Is a *deliberate* promise; that is, made with sufficient knowledge of the act, in regard both to its *nature,* which is that of a real *promise* made in *God's honor,* and to its *object* or the thing which is promised.

(*d*) Must be *free;* that is, not made under unjust influence or threat of some serious evil.

(*e*) In its object or course of action, implies something which it is *possible* to accomplish; one cannot promise what is beyond one's physical strength or what is morally impossible.

(*f*) In its course of action must be *more perfect than its opposite;* this point can be illustrated by consideration of the vow of poverty. The object of the vow of poverty is to give up the free and independent use of property for the sake of Christ. This course of action is, in itself, more perfect than the opposite one, which consists in retaining the free and independent use of one's possessions. Hence, apart from peculiar circumstances, poverty may be the object of a vow. We say: "apart from peculiar circumstances," because in the case, for instance, of married persons, who have the duty to provide for the needs of their family, and who, for this purpose, must have the free disposal of what they own, to give up the independent use of property is not more perfect than to retain it. Hence, as long as these circumstances remain, religious poverty cannot, for them, be the object of a vow. Something similar to this might be repeated in regard to the vows of chastity and obedience.

2. A vow is *public* if it has been accepted by a legiti-

mate ecclesiastical superior in the name of the Church; otherwise it is *private.* (Can. 1308, § 1.)

3. Again, a vow is *solemn,* if it is recognized as such by the Church; otherwise it is *simple.* (Can. 1308, § 2.)

4. Finally, a vow is *temporary* or *perpetual,* according as it is taken for a definite period of time or for life.

5. The *evangelical* or *religious* vows are the three vows of poverty, chastity and obedience, which are essential to the religious state. They may be *solemn* or *simple; perpetual* or *temporary* (to be renewed at stated times); they are always *public* when taken in a religious institute. (Cans. 487, 488.) (See RELIGIOUS INSTITUTE.)

6. The vows which religious may have taken before religious profession are *suspended as long as* they remain in the religious institute. (Can. 1315.) Hence, such vows will again have binding force if at any time those who have taken them cease to be religious.

7. Religious *solemn* vows cease to be solemn in the case of those religious who with the permission of the Holy See change their community and are admitted to renew their profession in a religious *congregation.* (Can. 636.) (See CHANGE OF INSTITUTE, ¶ 7.)

8. In keeping with the definition of a vow, which is a *promise made to God,* a vow always implies a real *obligation* of fulfilling it. The deliberate transgression of a vow is, therefore, always sinful, although it does not always amount to a *mortal* sin. In order to determine whether and when a vow obliges under penalty of mortal or only of venial sin, several circumstances must be taken into consideration, especially the extent of the transgression and (in the case of private vows) the intention with which the vow was taken. In regard to the obligations which arise from the three *religious* vows, see the articles on the VOWS OF POVERTY, OF CHASTITY, OF OBEDIENCE.

9. Vows, whether temporary or perpetual, may cease by a *dispensation* granted by the Apostolic See.

10. Moreover, in regard to *temporary* vows:

(1) At the end of the term for which they were taken, they cease unless at that time they are again renewed.

(2) Before the end of the term for which they were taken:

(*a*) They cease in consequence of a decree of *secularization;* this decree always implies a *dispensation* from the religious vows.

(*b*) They cease also by the very fact that one is *dismissed* from the institute.

11. In regard to *perpetual* vows:

(*a*) They cease in consequence of a decree of *secularization,* which likewise implies a dispensation from the religious vows.

(*b*) Unlike *temporary* vows, they do not cease by the very fact that one is dismissed, unless the constitutions or an apostolic indult provide otherwise; ordinarily dismissed religious who have not been released from their perpetual vows are obliged to seek readmission to the institute; with sufficient reason, however, they may apply for a release from their religious obligations, to be granted by a decree of secularization or by a dispensation.

12. In the case of *diocesan* institutes, whether of men or women, the decree of secularization may be given by the Ordinary of the place; in the case of *pontifical* institutes, only by the Apostolic See, and application must be made to the S. Congregation of Religious. (See Apostolic See. Concerning *secularization,* see Leaving, ¶¶ 4, 7, 8; concerning dismissal, see Dismissal, ¶¶ 11, 33, 42.)

13. When an indult of secularization or a dispensation from simple vows is granted by the S. Congregation of Religious through the superior general, it belongs to the latter to carry into effect the concession of the Holy See. But when the religious in whose favor the concession was made is informed of the same by his local superior, he may refuse to accept it, even though he had asked for it

and the official document containing the concession had been drawn up and signed, unless his superiors have some grave reasons to the contrary, in which case they must submit their reasons to the Holy See. (S. Congregation of Religious, August 1, 1922. *Acta Apostolicae Sedis,* XIV, 501.)

APPENDIX [1]

In regard to this appeal the S. Congregation of Religious issued a decree dated July 20, 1923, containing several declarations, among which are the following:

The appeal may be made either by letter, to be addressed to the S. Congregation of Religious, or through the person from whom the decree of dismissal was received.

The appeal may be made on the same day on which the decree of dismissal is received by a religious, or within the following ten days, but not later. If, however, a religious is ignorant of the law which grants him this right, or is incapable of availing himself of it, the ten day period in his case begins when he learns of the existence of the law, or is capable of availing himself of his right. It is, therefore, expedient that, in communicating a decree of dismissal to a religious, the superior inform him both of his right to appeal and of the time within which he is allowed to exercise it.

The appeal, if presented in due time, suspends the decree of dismissal. Accordingly, the superior may not enforce his decree until he has received an authentic document, confirming it, from the S. Congregation. Moreover, during the same interval, the person whose dismissal is under consideration does not cease to be a religious, and retains all his rights and obligations. He has, therefore, the right and obligation to live in the religious house, and he remains subject to his superiors, without detriment to Canon 2243, § 2. This canon provides for special cases in which a censure has been attached to the order of the superior.

(These declarations apply to all cases in which this appeal is made by religious, whether they are men or women.)

---

[1] See page 82, ¶ 9 (*c*).

SUPERIORS ¶¶ 4, 16

In some religious institutes there are *branch-houses* that depend entirely on some other house. The superior who governs them acts only as *delegate, at will,* of the superior who resides in the major house and who governs both communities. The S. Congregation of Religious has been asked whether these superiors who are simply *delegates, at will,* of the superior of a major house come under the name of *local superiors* as this term is understood in the Code of Canon Law, and the S. Congregation has answered *in the negative,* also requiring that, in undertaking the revision of the constitutions for the purpose of making them conformable to the Code of Canon Law, suitable provision be made by applying those canons which affect more closely the relations between superiors and subjects as each individual case may demand.

According to this answer of the S. Congregation, those who are at the head of branch-houses which respond to the description given above, do not enjoy, by virtue of their office, the powers which the law gives to local superiors; thus, for example, they cannot give permission to change a will as local superiors can do within the terms of Can. 583; likewise, they are not subject to certain prescriptions which are to be followed by law in the case of local superiors, as, for instance, the prescriptions contained in Can. 505, concerning the change of local superiors.

INDEX OF CANONS

Canon	*Article and Paragraph*
4	51, [17]; 85, [6]; 103, [4]
7	6, [1]
32, §1	63, [69]; 88, [3]
34, §3, n. 3	63, [35]; 88, [3]
34, §3, n. 5	84, [6]; 88, [16]; 88, [22]
100	25, [2]; 99, [5]
101, §1, n. 1	13, [7]; 13, [8]; 13, [9]; 34, [16]; 34, [17]
101, §1, n. 2	13, [10]
105, n. 1	13, [4]
106, n. 2	83, [4]
106, n. 3	83, [4]
106, n. 5	83, [3]; 83, [6]
106, n. 6	83, [5]
111	51, [10]
111, §1	88, [32]
119	85, [9]
120	85, [10]
121	85, [11]
122	85, [12]
123	85, [12]
130	37, [8]; 36
131, §3	23, [2]
133	66, [2]
136, §1	41, [1]
136, §2	41, [6]
137	66, [3]
138	66, [4]
139, §1	66, [5]
139, §2	66, [5]
139, §3	37, [2]; 66, [5]
139, §4	66, [5]
140	66, [6]
141	66, [7]
142	66, [8]; 105, [10]
145	28, [1]
161	34, [9]
162, §1	34, [10]
162, §2	34, [10]
162, §3	34, [10]
162, §4	34, [10]
163	34, [11]
167, §1	34, [12]
167, §2	34, [12]
168	34, [11]
169	34, [13]
170	34, [13]
171	34, [14]
172	34, [15]
173	34, [15]
174	34, [16]
179	34, [18]
180	34, [18]
181	34, [18]
182	34, [18]
198	10, [2]; 10, [4]; 67, [6]; 70, [1]
213	31, [11]
239, §1, n. 19	28, [7]
247	6, [3]
250	6, [3]
251	6, [3]
252	6, [3]
267	70, [1]; 102, [3]
274, n. 6	79, [3]
286, §4	91, [2]
290	91, [1]
295	58, [2]
296	58, [3]
297	58, [4]
298	58, [5]
307	58, [6]
323	70, [1]
325	2, [3]
337, §1	79, [3]
337, §2	79, [3]
357, §1	30, [1]
358, §1	30, [2]
358, §2	30, [3]

Canon	*Article and Paragraph*
359	30, [4]
367	28, [2]
397, n. 3	49, [4]
415	72, [8]
415, §2, n. 5	74, [6]
415, §3, n. 3	74, [6]
452, §2	72, [3]; 73, [1]
454, §5	72, [7]; 73, [11]; 74, [3]; 93, [2]
456	28, [2]; 72, [7]; 74, [2]
459, §2	74, [2]
464, §2	40, [2]; 49, [3]
465, §4	73, [3]; 73, [8]
465, §4	73, [3]; 73, [8]
466, §5	73, [3]
470, §2	69, [19]; 88, [20]
471	28, [2]; 72, [7]
471, §1	72, [3]; 73, [1]
471, §2	72, [3]; 73, [6]
472, n. 1	73, [2]; 73, [7]
473, §1	73, [2]
474	73, [3]
475, §1	73, [4]; 73, [9]
475, §2	73, [4]
476, §1	73, [5]
476, §4	73, [10]
476, §6	73, [5]
477	73, [11]
479, §1	93, [1]
479, §2	12, [2]
480, §2	93, [2]
485	93, [3]
486	93, [2]
487	101, [1]; 101, [2]; 101, [3]
488, n. 1	99, [1]; 108, [1]
488, n. 2	2, [4]; 26; 60; 68; 70, [2]; 70, [6]; 99, [2]
488, n. 3	29; 70, [2]; 78; 108, [3]
488, n. 4	17, [1]; 50; 108, [3]
488, n. 5	39; 94; 98, [1]
488, n. 6	90, [1]
488, n. 7	64, [1]; 85, [7]; 95; 97, [1]; 97, [2]; 97, [4]; 100; 107
488, n. 8	2, [4]; 2, [5]; 109, [2]
489	103, [3]
490	109, [3]; 110
491	83, [1]
491, §1	83, [2]; 83, [3]
491, §2	83, [2]
492, §1	62, [3]; 99, [5]; 99, [6]
492, §2	53, [4]; 70, [4]; 99, [8]; 99, [9]
492, §3	41, [4]; 62, [9]; 99, [7]
493	70, [4]; 98, [10]; 99, [11]
494, §1	90, [2]
494, §2	90, [2]
495, §1	90, [3]
495, §2	70, [4]; 103, [7]
496	98, [2]
497	14, [4]
497, §1	98, [3]
497, §2	16, [1]; 98, [4]; 98, [5]; 98, [6]
497, §3	98, [8]
497, §4	98, [9]
498	70, [4]; 98, [10]
499, §1	65, [5]; 102, [1]
499, §2	9
500	70, [5]
500, §1	70, [6]
500, §2	64, [4]; 70, [6]
500, §3	109, [10]
501, §1	109, [5]; 109, [6]
501, §2	19, [1]; 109, [7]
501, §3	109, [8]
502	109, [8]
503	109, [9]
504	109, [11]
505	109, [4]; 109, [12]; 109, [13]
506, §1	34, [1]
506, §2	34, [2]; 64, [6]; 70, [5]
506, §3	34, [2]
506, §4	34, [3]; 34, [9]; 70, [5]
507, §1	34, [4]; 34, [5]; 34, [6]
507, §2	34, [4]; 34, [7]
507, §3	34, [4]; 34, [8]; 34, [18]

Canon	*Article and Paragraph*
508	109, [19]
509, §1	109, [20]
509, §2, n. 1	109, [21]
509, §2, n. 1	109, [22]
509, §2, n. 2	109, [23]
509, §2, n. 2	109, [24]
510	109, [25]; 109, [26]
511	109, [30]; 112, [2]
512, §1	112, [3]
512, §2	112, [4]
512, §2, n. 2	70, [5]
512, §2, n. 3	70, [5]
512, §3	112, [5]
513, §1	112, [6]; 112, [7]
513, §2	112, [7]
514	82, [3]
514, §1	49, [1]
514, §2	49, [2]
514, §3	49, [3]
514, §4	40, [1]
515	44, [1]
516, §1	13, [2]
516, §2	7, [1]
516, §3	7, [2]
516, §4	7, [3]; 13, [6]
517	87, [1]
518, §1	24, [1]; 24, [2]
518, §2	24, [3]
518, §3	24, [3]
519	24, [4]; 24, [5]; 24, [43]; 75, [5]
520, §1	24, [7]
520, §2	24, [8]
521, §1	24, [9]; 24, [12]
521, §2	24, [10]; 24, [12]
521, §3	24, [11]; 24, [12]; 105, [22]
522	24, [13–21]; 75, [3]; 105, [22]
523	24, [22]; 24, [23]; 75, [3]; 105, [22]
524, §1	24, [25]
524, §2	24, [26]
524, §3	24, [27]
525	24, [28]; 64, [6]
526	24, [29–32]
527	24, [33]
528	24, [34]; 24, [35]
529	12, [2]; 82, [2]

Canon	*Article and Paragraph*
530	54, [5]
531	22, [1]; 22, [2]
532	112, [5]
532, §1	22, [3]
532, §2	22, [4]
533	22, [5]; 74, [2]; 112, [5]
533, §1, n. 1	64, [6]
533, §1, n. 4	72, [5]; 74, [8]
534	112, [5]
534, §1	13, [6]; 22, [6]; 22, [7]; 22, [8]; 22, [9]; 105, [8]
534, §2	22, [10]
535	112, [5]
535, §1	22, [11]
535, §1, n. 1	64, [6]
535, §2	22, [12]
535, §3, n. 1	22, [11]
535, §3, n. 2	22, [13]; 22, [14]; 72, [5]; 74, [8]
536, §1	22, [15]
536, §2	22, [15]
536, §3	22, [15]
536, §4	22, [15]
536, §5	22, [16]
537	22, [17]
538	4, [1]; 113, [11]
539, §1	80, [3]
539, §2	80, [4]
540, §1	80, [5]
540, §2	41, [3]; 80, [6]
540, §3	80, [7]; 105, [6]
541	80, [8]
542	105, [19]
542, n. 1	63, [1]
542, n. 2	63, [10]
543	13, [6]; 31, [12]; 63, [17]; 63, [52]; 88, [4]
544	105, [19]
544, §1	63, [19]
544, §2	63, [20]
544, §3	63, [21]
544, §4	63, [22]
544, §5	63, [23]
544, §6	63, [24]
544, §7	63, [25]
545, §1	63, [26]

Canon	*Article and Paragraph*
545, §2	63, [27]
545, §3	63, [28]
545, §4	63, [29]
546	63, [29]
547, §1	33, [2]
547, §2	33, [6]
547, §3	33, [2]
547, §4	33, [5]
548	33, [7]
549	13, [6]; 33, [9]; 70, [5]; 105, [20]
550, §1	33, [10]
550, §2	33, [10]
551	105, [20]
551, §1	33, [8]
551, §2	11, [9]; 33, [8]
552	70, [5]; 88, [18]; 105, [20]
552, §1	63, [31]
552, §2	63, [31]
553	63, [32]
554, §1	63, [33]
554, §2	63, [33]
554, §3	45, [2]; 63, [33]
555	63, [34]
555, §1, n. 1	103, [4]
556, §1	63, [37]; 63, [38]; 63, [39]
556, §2	63, [40]
556, §3	63, [41]
556, §4	63, [41]
557	41, [3]; 63, [32]
558	63, [43]
559	45, [4]
559, §1	55, [1]
559, §2	55, [3]
559, §3	55, [5]
560	55, [2]; 55, [3]
561, §1	55, [4]
561, §2	55, [4]
562	55, [5]
563	55, [12]
564	63, [42]
564, §1	63, [33]
564, §2	63, [33]
565, §1	55, [6]
565, §2	55, [7]; 109, [23]
565, §3	55, [8]; 55, [9]; 55, [10]

Canon	*Article and Paragraph*
566, §1	24, [37]
566, §2	24, [43]
566, §2, n. 1	24, [38]; 24, [40]
566, §2, n. 2	24, [39]
566, §2, n. 3	24, [41]
566, §2, n 4	24, [42]
567, §1	63, [47]
567, §2	63, [47]
568	84, [2]
569, §1	84, [5]; 84, [7]; 84, [15]
569, §2	84, [11]; 84, [13]; 84, [15]
569, §3	84, [3]; 84, [18]
570, §1	11, [9]; 33, [8]; 63, [49]
570, §2	63, [50]
571, §1	13, [6]; 31, [2]; 31, [3]; 63, [51]
571, §2	63, [52]; 88, [4]; 105, [19]
571, §3	63, [53]; 88, [17]
572, §1, n. 1	88, [3]
572, §1, n. 2	88, [4]
572, §1, n. 3	88, [5]
572, §1, n. 4	88, [6]
572, §1, n. 5	88, [7]
572, §1, n. 6	88, [8]; 88, [19]
572, §2	88, [9]
573	88, [3]
574	11, [6]; 69, [4]
574, §1	88, [10]; 88, [22]; 88, [23]
574, §2	88, [15]; 88, [22]
575	31, [12]
575, §1	84, [6]; 88, [16]; 88, [22]
575, §2	13, [6]; 63, [52]; 88, [4]; 88, [15]
576, §1	88, [19]
576, §2	88, [20]
577, §1	84, [6]; 88, [22]
577, §2	88, [23]
578, n. 1	88, [26]
578, n. 2	88, [26]
578, n. 3	88, [26]
579	84, [22]; 88, [27]
580, §1	74, [5]; 84, [9]; 84, [10]; 84, [13]

Canon	*Article and Paragraph*
580, §2	21, [2]; 74, [5]; 84, [11]; 108, [6]
580, §3	84, [14]; 84, [15]; 84, [16]; 109, [8]
581	84, [20]
581, §1	11, [9]
582	84, [21]
582, n. 1	11, [9]; 21, [2]; 74, [5]; 84, [23]
582, n. 2	84, [23]
583	84, [9]
583, n. 1	84, [17]
583, n. 2	84, [19]
584	88, [29]
585	51, [10]; 88, [32]
586, §1	88, [33]
586, §2	88, [33]
586, §3	88, [34]
587, §1	45, [1]
587, §2	45, [2]
587, §3	45, [3]
587, §4	45, [3]
588, §1	45, [4]
588, §2	45, [4]
588, §3	45, [5]
589, §1	45, [6]
589, §2	45, [7]
590	36; 37, [8]; 109, [8]
591	23, [1]
592	66, [2]; 66, [9]
593	66, [1]
594, §1	21, [1]
594, §2	21, [2]
594, §3	21, [3]
595, §1	76
595, §1, n. 3	75, [1]
595, §2	42, [16]; 76
595, §3	42, [16]; 76
595, §4	42, [16]; 76
596	41, [2]
597	97, [3]
597, §1	35, [3]
597, §2	35, [4]
597, §3	35, [5]
598, §1	35, [6]
598, §2	35, [6]; 35, [15]
599, §1	35, [7]
599, §2	35, [7]
600	35, [8]; 35, [15]
600, n. 1	35, [9]
600, n. 2	35, [9]
600, n. 3	35, [11]
600, n. 4	35, [10]
601	105, [6]
601, §1	35, [12]; 80, [7]
601, §2	35, [12]
602	35, [13]
603, §1	35, [14]
603, §2	35, [14]
604, §1	35, [15]
604, §2	35, [16]
604, §3	35, [17]
605	35, [18]
606, §1	35, [19]
606, §2	35, [20]
606	51, [3]
607	35, [21]
608, §1	16, [8]
608, §2	16, [8]
609, §1	72, [8]; 74, [6]
609, §2	72, [6]
609, §3	16, [4]
610, §1	32, [3]
610, §2	32, [8]
610, §3	32, [5]
611	53, [2]; 53, [3]
612	16, [5]
613, §1	85, [4]; 85, [6]
613, §2	85, [7]
614	85, [8]
615	37, [1]; 37, [4]; 37, [5]; 64, [4]; 70, [6]
616, §1	37, [10]
616, §2	37, [11]
617, §1	37, [12]
617, §2	37, [13]
618	70, [5]
618, §1	37, [8]
618, §2	37, [9]
618, §2, n. 2	70, [5]; 112, [4]
619	19, [2]
620	47
621, §1	5, [16]; 20, [1]; 20, [4]; 20, [6]
622, §2	20, [1]; 20, [8]
622, §3	20, [9]
622, §4	20, [10]
623	20, [11]

Canon	*Article and Paragraph*
624	20, [5]; 20, [12]
625	2, [2]; 2, [3]
626, §1	28, [2]
626, §2	28, [3]
626, §3	28, [4]
627, §1	28, [5]
627, §2	28, [6]
628	28, [7]
629	28, [8]
630, §1	74, [4]
630, §2	74, [4]
630, §3	74, [5]
630, §4	74, [6]
631, §1	74, [4]
631, §2	74, [4]
631, §3	74, [3]; 74, [7]; 74, [8]
632	11, [1]
633, §1	11, [3]; 11, [4]
633, §2	11, [5]
633, §3	11, [3]
634	11, [6]; 88, [4]
635, n. 1	11, [8]
635, n. 2	11, [9]
636	11, [7]; 114, [7]
637	4, [6]; 31, [12]; 51, [2]; 63, [5]; 88, [16]
638	51, [3]
638	51, [4]
639	41, [5]; 51, [5]; 51, [6]; 65, [6]
640	63, [5]
640, §1, n. 1	51, [7]
640, §1, n. 2	51, [8]
640, §2	51, [9]
641	51, [13]
641, §1	31, [11]; 51, [10]; 51, [11]; 51, [12]
641, §2	51, [12]
642	31, [11]
642, §1	51, [13]
642, §2	51, [14]
643, §1	51, [18]
643, §2	31, [10]; 31, [23]; 51, [19]
644, §1	5, [2]
644, §2	5, [2]
644, §3	5, [3]

Canon	*Article and Paragraph*
645, §1	5, [4]; 5, [5]
645, §2	5, [5]
646, §1	31, [4]
646, §2	31, [5]
647	31, [18]
647, §1	13, [6]; 31, [6]; 70, [4]
647, §2, n. 1	31, [7]
647, §2, n. 2	4, [6]; 31, [7]
647, §2, n. 3	31, [8]
647, §2, n. 4	31, [9]
647, §2, n. 5	31, [10]
648	31, [11]; 63, [5]
649	31, [13]
650, §1	13, [6]; 31, [17]
650, §2	13, [6]
650, §2, n. 1	31, [18]; 70, [4]
650, §2, n. 2	31, [19]
650, §2, n. 3	31, [20]
650, §3	31, [21]
651, §1	31, [21]
651, §2	31, [21]
652	70, [4]
652, §1	31, [22]
652, §2	31, [23]
652, §3	31, [23]
653	13, [6]; 31, [24]; 41, [5]
654	31, [25]
655	31, [30]; 109, [8]
655, §1	13, [6]; 31, [26]
655, §2	31, [26]
656	31, [13]
657	31, [14]
658, §1	31, [15]
658, §2	31, [15]
659	31, [15]
660	31, [15]
661, §1	31, [15]
661, §2	31, [15]
661, §3	31, [15]
662	31, [16]
663	31, [28]; 31, [30]
664, §1	31, [29]
664, §2	31, [29]
665	13, [6]; 31, [29]
666	31, [29]
667	31, [30]
668	13, [6]; 31, [32]; 41, [5]

Canon	*Article and Paragraph*
669	63, [5]
669, §1	31, [33]
669, §2	31, [34]
670	31, [35]
671	31, [42]; 41, [5]
671, n. 1	31, [36]
671, n. 2	31, [37]
671, n. 3	31, [37]
671, n. 4	31, [38]
671, n. 5	31, [39]
671, n. 6	31, [40]
671, n. 7	31, [41]
672	31, [42]
672, §1	31, [43]
672, §2	31, [44]
673, §1	108, [2]
673, §2	108, [3]
674	108, [4]
675	108, [5]; 109, [25]; 109, [26]
676	108, [6]
677	108, [7]
678	108, [8]
679, §1	108, [9]; 108, [10]
679, §2	108, [10]
680	108, [11]
681	108, [12]
681	108, [13]
686	25, [3]
686, §3	111, [5]
687	25, [2]
689	25, [4]
690	25, [5]; 111, [6]
691	25, [5]; 111, [6]
693, §4	25, [1]
698	25, [6]
699	25, [13]
702, §1	111, [1]
702, §2	111, [3]
703, §1	111, [4]
703, §2	111, [5]
703, §3	111, [5]
704	88, [31]; 111, [7]
707	25, [1]
708	25, [2]
709, §2	25, [7]
712, §1	25, [8]
712, §3	25, [8]
713, §1	25, [9]
713, §2	25, [10]
714	25, [10]
715	25, [11]
719	25, [12]
766, n. 4	66, [11]
792	16, [9]
796, n. 3	66, [11]
804, §1	43, [1]
804, §2	43, [1]
804, §3	43, [2]
821	43, [3]
822	43, [4]
831	43, [5]
847	42, [13]
848	42, [14]; 49, [4]
849	42, [14]
850	42, [15]; 49, [4]
858, §2	85, [1]
874	75, [4]; 75, [5]
874, §1	24, [28]; 24, [34]; 75, [3]; 75, [5]
875	75, [4]
875, §2	24, [34]
876	24, [28]; 75, [3]
877	75, [6]
878	75, [7]
880	24, [33]
880, §1	75, [8]
880, §3	75, [8]
891	24, [40]; 55, [5]
909	24, [17]
915	71
919	25, [9]
919, §1	46, [1]
919, §2	46, [2]
938	49, [4]
959	69, [3]
964, n. 1	2, [3]; 69, [2]
964, n. 2	69, [3]; 69, [4]
964, n. 3	69, [3]; 69, [4]
964, n. 4	69, [4]
965	69, [3]; 105, [18]
966	69, [3]; 105, [18]
967	69, [3]; 105, [18]
970	69, [5]
975	69, [6]
976	69, [7]
982	69, [8]
984	69, [9]

Canon	*Article and Paragraph*
985, n. 4	69, [10]
990	69, [10]
991, §3	69, [11]
993	69, [12]
994, §1	69, [13]
995	69, [14]
996	69, [15]
997, §1	69, [15]
997, §2	69, [15]
998, §1	69, [16]
1001, §1	69, [17]
1001, §2	69, [17]
1001, §3	69, [17]
1001, §4	69, [17]
1006, §2	69, [3]
1011	69, [19]
1073	15, [2]
1117	109, [11]
1119	88, [28]
1155	16, [2]; 27, [3]
1156	16, [3]
1157	27, [3]
1162, §4	16, [1]
1163	27, [6]
1169, §5	27, [4]; 27, [6]
1171	16, [4]
1188, §1	67, [1]
1188, §2, n. 1	67, [2]
1188, §2, n. 2	67, [3]
1188, §2, n. 3	67, [4]
1191	67, [5]
1192, §1	67, [6]
1192, §2	67, [6]
1192, §3	67, [8]
1192, §4	67, [7]
1193	43, [4]; 67, [9]
1194	43, [4]
1195	43, [4]
1195, §1	67, [10]
1195, §2	67, [10]
1196	43, [4]; 67, [11]
1199, §2	27, [4]; 27, [5]
1205, §1	27, [6]
1218, §3	40, [3]
1221, §1	40, [1]; 40, [2]
1221, §2	40, [3]
1221, §3	40, [4]
1224	40, [1]
1225	40, [1]

Canon	*Article and Paragraph*
1230, §5	40, [2]; 40, [3]
1265	42, [3]
1265, §1, n. 1	42, [1]
1265, §1, n. 2	42, [2]
1265, §2	42, [4]
1267	42, [5]; 42, [6]; 42, [7]; 42, [8]
1274, §1	16, [4]; 42, [10]; 42, [11]
1275	42, [12]
1277	96, [1]
1279	104, [1]; 104, [2]
1280	104, [3]
1281	104, [3]
1283	96, [2]
1284	96, [3]
1285, §2	96, [4]
1290, §1	86, [1]
1290, §2	86, [2]
1291, §1	86, [3]
1291, §2	86, [4]
1292	86, [3]
1293	86, [4]
1298	28, [7]
1303, §2	43, [5]
1304	27, [7]
1308, §1	114, [2]
1308, §2	114, [3]
1315	88, [30]; 114, [6]
1325	5, [1]
1334	16, [6]
1337	82, [1]
1338, §1	82, [3]
1338, §2	82, [2]
1338, §3	82, [2]
1339, §1	82, [4]
1339, §2	82, [5]
1340	82, [6]
1341, §1	82, [7]
1343, §1	82, [8]
1343, §2	82, [9]
1345	16, [7]
1356	106, [1]
1366, §2	45, [6]
1382	112, [8]
1385	92
1385, §1, n. 3	104, [2]
1386	92
1388	25, [9]

Canon	*Article and Paragraph*
1388, §1	46, [2]
1406	89, [1]
1406, §1, n. 7	69, [18]
1406, §1, n. 9	109, [18]
1409	28, [1]
1423, §2	72, [4]
1425, §1	72, [2]; 72, [4]
1425, §2	72, [3]
1427, §1	72, [9]
1427, §5	72, [9]
1428, §3	72, [9]
1491	14, [6]
1492, §1	14, [6]
1497	22, [7]
1503	20, [13]
1515	10, [2]
1516	10, [4]
1525	14, [6]; 111, [6]
1531	22, [6]
1532	105, [8]
1544, §1	77, [1]
1545–1549	77, [2]
1550	77, [3]
1557, §2, n. 2	48, [4]
1579, §1	48, [5]
1579, §2	48, [6]
1579, §3	48, [7]
1589, §2	31, [26]
1594, §1	48, [8]
1594, §2	48, [8]
1594, §3	48, [8]
1594, §4	48, [8]; 109, [8]
1652	66, [11]
1653, §6	66, [11]
1657, §3	66, [11]
1931	66, [11]

Canon	*Article and Paragraph*
1939	31, [15]
1940	31, [15]
1941	31, [15]
1942	31, [15]
1943	31, [15]
1944	31, [15]
1946	31, [15]
2014	66, [11]
2030	66, [11]
2195, §1	37, [11]
2230	105, [4]
2334	105, [2]
2335	105, [3]
2336	105, [2]
2336	105, [3]
2342, n. 1	105, [5]
2342, n. 2	105, [4]
2342, n. 3	80, [7]; 105, [6]
2343, §4	105, [7]
2347	105, [8]
2377	105, [9]
2380	105, [10]
2385	105, [11]
2386	105, [12]
2387	105, [13]
2388	105, [14]
2389	105, [15]
2390	105, [16]
2391, §1	105, [17]
2391, §2	105, [17]
2410	105, [18]
2411	105, [19]
2412	105, [20]
2413	105, [21]
2414	105, [22]

427